



# PARLIAMENTARY COMMITTEES IN INDIA



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Dedicated to my parents  
Sri Udayanath Jena  
and  
Srimati Bauri Devi  
who always preside over the sessions  
of my sweet silent thought.

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## FOREWORD

It is with great pleasure that I have agreed to write the Foreword to the book of Dr. B. B. Jena, "Parliamentary Committees in India." The book is based on his doctoral dissertation, and I know that considerable labour and research have gone into writing it ; and it is difficult to over-state the importance and timeliness of this publication.

As we gain more and more experience with the working of democratic institutions, we understand more and more of their real nature and deficiencies, and devise other methods and auxiliary institutions to meet them. And one such device is the Committee system adopted in almost all democratic countries. Indeed, students as well as participants in governmental process realised long ago the significant role the parliamentary Committees play, and it is no wonder that the Constituent Assembly of India had easily taken their need for granted and, as Dr. Jena says, provided for them rather casually and by implication.

Our governmental system in India is based on the British model, and our Committees also were expected originally to enjoy the same privileges and discharge the same functions as their counter-parts in England ; and for some time, until Dr. Jena delved deep in their working, students of the Indian Constitution took them to be so. But now Dr. Jena's thesis shows that our Committees of the Lok Sabha are doing much more than the Committees elsewhere.

According to his thesis, our Committees in India have "departed from the British system and drifted towards Congressional ones, but have not attained the status of the latter." Our Lok Sabha in fact has borrowed some foreign institutions, adapted them to our needs and also created new ones where necessary. One such institution created newly is the Committee on Government Assurances. Of the special roles the Committee system has assumed in India, mention must be made of its acting as the 'Opposition', of its saving the House

from its ( the latter's ) "impotence" vis-a-vis the growing menace of Cabinet Dictatorship, of its checking the autocracy of Bureaucracy which is growing under the cloak of ministerial responsibility, and, above all, of its offering training ground for future ministers.

Dr. Jena seems to be satisfied with the number as well as the role of the present Committees in the Lok Sabha and he does not want either to increase their number or change their nature. Especially, he is against India adopting the British Committee of the Whole House or the American Investigational Committees smaking of McCartheism.

Dr. Jena's book is a masterly analysis of the Committee system as it functions in the Indian Lok Sabha and is a welcome addition to the much needed literature on the working of the Indian Constitution as apart from the mere legal commentaries. There is a great need today for the Indian scholars even to go beyond the working of the constitutional institutions and study the evolution and functioning of such extra-constitutional institutions and forces as political parties, pressure groups and power elites. There is also a great need for Indian political scientists adopting emperical and behavioural approaches as adjuncts to their scientific studies. Let us hope that young men like Dr. Jena would rise up to the occasion.

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## PREFACE

Designed to relieve Parliament of work for which it has very little time, the Committee system has assumed importance in recent times. As the Houses consist of a large number of members and the problems have increased in number and complexity, the delegation of certain of their powers to the Committees has become a normal practice. In England the Committees were originally called upon to undertake work which so large a body as the House of Commons was incapable of performing, in particular to investigate concrete questions of fact or law upon which the House wished to have definite information, but gradually these Committees (of the House of Commons) like the Public Accounts Committee, Committee on Estimates, Committee on Statutory Instruments are exercising some control over the executive. Some of them have assumed such status that no department would dare defy their recommendations. Such growth of Committee in a Parliamentary democracy, as in England, has provoked scholars like Professor K. C. Wheare to describe the "Parliamentary Government" as "Government by Committees."

Since Indian Parliamentary democracy has been working on the British model, it is pertinent to see if our Committees of Lok Sabha have acquired the strength and utility of their counterparts of the House of Commons.

A study of Committee of Lok Sabha, therefore, is necessary, nay, imperative.

The problem of our study has been analysed as follows :—

1. Are the Committees of Lok Sabha strictly following the British practice or have they drifted in some other direction ?
2. Has Lok Sabha invented any new Committees ? If so, for what purpose ?
3. How are the Committees working in a Parliamentary system where the opposition is weak ?

4. What is the effect of planning and development on Parliamentary sovereignty and how has the Committee system of Lok Sabha reacted to it ?
5. Are the existing Committees in Lok Sabha enough ?

It was in fact, the suggestion of Sir Ivor Jennings to study the works of Josheph Redlich on "Procedure of the House of Commons" that has given me the idea to take up this study. Redlich's treatment of the History of Committees of the House of Commons created these problems in my mind. The excellent work of Prof. K. C. Wheare on "Government by Committees" clearly set the motion.

Not much literature is produced on the study of the Committees of Lok Sabha in India. Some portions in "Parliament in India" by Prof Morris-Jones, "Indian Parliament" by Prof. A. B. Lal (Edt ), "Practice and Procedure of Indian Parliament" by Advocate S. S. More, have been devoted to the study of Committees; they within their limited space, have given a general outline of some of the important Committees, but no complete work on the Committees of Lok Sabha has been attempted so far. I have freely availed of the knowledge and wisdom of the published works and Journals on Parliamentary Procedure. I have made use of the authoritative records of the Committees so far published and I have also cosulted various M Ps. for clarifications.

The Committees of Lok Sabha have been divided by me into Standing Committees and Ad Hoc Committees and the Standing Committees have been further divided into five classes as follows :

- (1) Committees to inquire—under this category come
  - (a) Committee on Petition, and (b) Committee of Privileges ;
- (2) Committees to Scrutinise—under this category comes Committee on Government Assurances ;
- (3) Committees to Control—under this category come
  - (a) Committee on Subordinate Legislation,

- (b) Estimates Committee (c) Public Accounts Committee and (d) Committee on Public Undertakings.
- (4) Committees to advise—under this category come
  - (a) Business Advisory Committee, (b) Committee on Private Members' Bills and Resolutions (c) Rules Committee and (d) Committee on Absence of Members from the sittings of the House ;
- (5) House-keeping Committees—under this category come
  - (a) House Committee, (b) Library Committee, (c) Joint Committee on Salaries and Allowance of Members of Parliament, and (d) General Purposes Committee.

The Ad Hoc Committees are divided into two types (a) Regular and (b) Incidental. Under the former come Select Committees on Bills and Joint Committees on Bills, and under the latter, the Committee on Draft Five year Plans, Railway Convention Committee etc.

Each of these Committees has been discussed in detail. At the end of each discussion, the utility of each has been shown. Thus each Committee has received separate treatment.

The conclusions, the study enables me to arrive at, are that (a) the Committees of Lok Sabha have not strictly followed the British model ; they are drifting slowly towards the Congressional type, oscillating between the two. (b) Some of the Committees are innovations of Lok Sabha and they are designed both to relieve the House from the burden and to exercise some control over the executive, (c) the Committees have successfully saved the House from its impotency in relation to the growing menace of cabinet dictatorship, and (d) the Committees are the definite source of fear to the bureaucrats. It should not be presumed here that each Committee is performing all these. But taken as a whole the Committees of Lok Sabha have advanced in these directions.

As to the method of treatment, the First chapter i.e. Committee in General is devoted to give a broad background

to the study. The Second chapter gives some general features of Committees of Lok Sabha. Then comes the treatment of each Committee. Each Committee has been discussed in the following way (a) First part is devoted to the need of such a Committee with particular reference to British practice, (b) Second part deals with the composition ; (c) Third, with power and functions ; (d) Fourth, with procedure ; (e) Fifth, with concluding remarks, if any. In the case of some Committees, however, the first part has been divided into (a) the need and (b) practice ; and in some composition, powers and procedures have been combined into one part depending upon the requirement of the Committee. Besides, wherever possible, some suggestions for improvement have been given. In the case of Committee of privileges, a definite suggestion has been given to change the nature of its work from being a Judge to acting as a prosecutor, surrendering the former function to the Supreme Court of India.

On the whole, attempts have been made to unfold the hidden values of many Committees which have received very little attention so far—the Committees on petition, the Committees on Government Assurances and the like. The whole subject of this study is to see if the Lok Sabha Committees could save Parliamentary democracy and ensure effective Parliamentary control over the ever expanding executive. I have tried to offer suggestions where there are failings and short-comings of the existing Committees.

The various sources of information have been given in the Bibliography and the important ones are acknowledged in the foot-notes at the appropriate places.

I am grateful to Sir Ivor Jennings who has so kindly extended his ungrudging assistance to me by giving me valuable suggestions. The entire work has been prepared under the guidance of Dr. K. V. Rao, M.A., M.Litt., D.Litt., the then Head of the Post Graduate Department of Political Science, Utkal University and now the Professor and Head of the Department of Political Science, B. H. U. I cannot express

in words how grateful I am to him for his help, guidance and inspiration. I am also thankful to him for the Foreword. I shall fail in my duty if I do not offer my gratitude to all those M.Ps. who have given me information on the working of the Committees. The Secretaries of Lok Sabha, Orissa Legislative Assembly, Madras Legislative Assembly and West Bengal Legislative Assembly deserve no less thanks for extending assistance from time to time. I am also thankful to the Librarian, National Library at Calcutta for his assistance. I am equally thankful to the authorities of the Utkal University for permitting me to publish this work which is a revised version of my Ph.D. thesis.

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**“Those who know, do not talk,  
Those who talk, do not know”.**

**Lao-Tzû**



## CHAPTER I

### PARLIAMENTARY COMMITTEES IN GENERAL

The enormous volume of work before a legislature and the limited time at its disposal, make it impossible that every matter should be considered at length on the floor. If the work is to be done expeditiously and with reasonable care, some of this responsibility has to be entrusted to some other agency in which the whole House has confidence. Besides the services of the Speaker and his deputies and those of the permanent officers who are at the Speaker's disposal, there need be other auxiliaries "to which the House has recourse for the despatch of its work".<sup>1</sup> These agencies should be employed not only for disposing of some work of the House but also to have efficient performance of its labours, legislative as well as others

The most "practical method" so far devised for this purpose is the Committee system, composed of a small number of members of the legislative body.<sup>2</sup> In continental Parliaments and in U.S. Congress, indeed, the formation of Committees for detailed preliminary discussion of all important matters, especially of legislative projects, is an invariable rule. In the House of Commons also the Committees are the important auxiliary organs, though with differences in functions. Such Committees of the British type have several functions. The primary function of some is the study of legislative proposals referred to them, the securing of "information relative to the need for such legislation" and its probable effects if enacted, and making of recommendations to the legislative body as to "what course of action should be taken".<sup>3</sup> Broadly speaking, the purpose of such Committees is two-fold: (1) to expedite the legislative process by making

1. Josef Redlich, *The Procedure of House of Commons*, Vol. II, p. 185.

2. Harvey Walker, *The Legislative Process*, p. 207.

3. H. W. Dodds, *Procedure in State Legislatures*, p. 102.

possible the consideration, by various Committees, of a number of legislative proposals simultaneously ; and (2) to make possible some degree of specialisation, since a member of a particular Committee, though at the time of his appointment is not specially competent in the subject, may be expected to acquire some degree of proficiency through Committee service. Thus these Committees enable more people to be associated with a particular legislative process ; and they facilitate passage of more Bills. The Government as well as the Legislature is anxious to pass more Bills ; but if all the Bills have to be considered in all their stages by the whole House it would prove a Herculean task. Therefore, the then (Labour) Government (in England) was interested to see specially in view of the heavy programme of legislation during the period of transition from war to peace, that "the main expenditure of time upon legislation arises at the Committee stage".<sup>4</sup> Accordingly their main proposal was to refer all matters first to the Committee stage ; in their opinion, it would be necessary during the reconstruction period to send practically all Bills "upstairs"<sup>5</sup> and to find means of accelerating their passage in Standing Committees which should be set up in as many numbers as the business demanded. These proposals, the Government estimated, would save anything (time) up to thirty days on the floor of the House of Commons in the course of a session.<sup>6</sup>

It is further maintained that by using Committees it is possible not only to pass a greater number of important Bills, but also to ensure that these Bills get proper consideration.<sup>7</sup> The Government which desires to pass a lot of Bills could, no doubt, use its majority to get them through the whole House

4. First Report from Select Committee on Procedure, House of Commons of 1945, pp. X—XI.

5. Committee meetings are held upstairs of the Parliament House ; hence sending a Bill "upstairs" has come to mean "referring Bill to Committee".

6. First Report, Select Committee on Procedure, p. XI.

7. K. C. Wheare, *Government by Committee*, p. 140. See also Sir Ivor W. Jennings, *Parliament*, pp. 268—279

by the application of the guillotine, but if it does so, a proper consideration of the Bills would be impossible and the Government itself does not like it. If Committees are used, many Bills can be considered and each Bill could be considered in detail. It is in the Committee where the members are likely to be more interested in the proceedings than when a casual majority of members are called into the chamber from time to time at a division, without having followed the discussion.

Again, certain amount of Parliament's time is consumed for business other than for ordinary legislation. Some days are spent on the debate on the "Address from the Throne" or "Address of the President", and certain time is devoted for question hours, adjournment motions, points of order and for various other business. All these activities take up time which is consequently not available for ordinary legislation. In these circumstances, the number of Bills which the Government expects to push through, could be passed after an adequate discussion only if the Committees are employed for the purpose of preliminary study. Unless a proposition has been thoroughly studied and the main motion or resolution calling for action on it has been carefully drafted, debate will generally be diverted to other extraneous points. It is also wise, or perhaps even necessary, to have additional and full information on the question before taking final action on the motion or on the general question. Study of this sort is best accomplished by a small group of individuals representing the major divisions of opinion of the larger House.<sup>8</sup>

The Committee system also affords a very useful field of work for a great deal of varied experience and ability which may otherwise run waste in the House. It would provide "the best hope of securing increased economy and efficiency in administration".<sup>9</sup> It would bring the government under control, and at the same time save it from deterioration by

8. John. B. Moore and Z. S. Moore, *Essentials of Parliamentary Procedure*, p. 44.

9. Ramsay Muir, *How Britain is Governed*, 4th Ed, p. 177.

“letting a breeze of healthy and competent criticism blow through the corridors of the great offices”. Though the Committees are not permitted to discuss matters of policy,<sup>10</sup> they can and do influence the policy of the Government to a much larger extent than could be thought of.

## II

The Committee system in our country is based on the British pattern. The discussion on the Parliamentary Committees in India would be facilitated if the nature and general characteristics of the Committees are firmly grasped.<sup>11</sup>

First, the members of the Committees are all party men. There are very few members who are independent or non-party men. Appointments are made according to the party composition of the House, the government party having majority on the Committees. Ofcourse, methods of selecting the members differ from country to country—in the United Kingdom they are chosen by a Committee of Selection ; in France they are appointed by the general vote of the Assembly as per the nomination by the Parliamentary groups in proportion to their numerical strength ( no group with less than fourteen members getting representation ) ; in the United States the selection is made by the House by a formal resolution adopting the recommendations of the party caucuses.

The second feature we find is that the Chairman also is a party man. The predominance of party in the Standing Committees affects the position of the Chairman. In the British Standing Committees the leadership is in the hands of a minister, and the Chairman is concerned with questions of order and the conduct of business. But the Chairman of the Congressional Committee or French Committee is clothed with more effective powers. Nevertheless, the Chairman of

10. Very rarely, the policy contained in the Bill or resolution is opposed by the Committee. Alternative policies in India, are indicated by the appropriate Committees.

11. See K. C. Wheare, *op. cit.* , for details.

the British type is not without importance. It is the duty of the Chairman to see that the minority in the Committee is given a fair hearing and also that the majority is not obstructed in the carrying through its business. Ordinarily the principal duties of the Chairman are : (a) to call the Committee together at the regular time and place of meetings, if a regular time and place are provided, otherwise at such reasonable times and places as to enable the Committee to properly perform its functions ; (b) to preside over meetings of the Committee and to put all questions ; (c) to maintain order and decide all question of order subject to appeal to the Committee ; (d) to supervise and direct the clerical and other employees of the Committee ; (e) to prepare or supervise the preparation of reports of the Committee and submit the same to the Committee ; and (f) to have custody of all papers referred to the Committee, and to transmit them to the Chief Clerical Officer of the House when the Committee is through with them.<sup>12</sup>

It is the usual practice for the authority appointing a Committee to designate the Chairman. Otherwise when a Committee is elected it is the proper procedure following the election to designate the Chairman by a motion. The power to appoint a Committee carries with it, if there is no rule to the contrary, the inherent power to appoint the Chairman of the Committee, and a Chairman is usually designated by the appointing power. Sometimes the Committee elects its own Chairman.<sup>13</sup> The Chairman's impartiality is reflected in the way he is appointed.

In Great Britain the Chairman is appointed by the Speaker and chosen not from among the members of the Committee itself but from a special panel of members of the House, the

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12. Paul Mason, *Mason's Manual of Legislative Procedure*, 1953, pp 436—37.

13. Sometimes the Chairman's name is indicated in a resolution seeking to set up a Committee. The names of other members are also given in such motion.

Chairmen's panel,<sup>14</sup> consisting of the Chairman of Ways and Means, the Deputy Chairman, and other members of the House appointed by the Speaker to act as temporary Chairmen of Committees of the Whole House. They are chosen from all parties. It is true that an opposition member may preside over a Standing Committee or a member of the government party may do so. The Speaker selects the Chairman and the choice is made on grounds of ability and convenience. Party considerations do not influence the choice "always". With the Chairman performing his own functions, the main share in leading the Committee falls on the Minister in the case of Bills. His business is to steer the Bill through the Committee. As a general rule it is the Minister who does most of the talking on the government side of the Committee. He replies to the opposition points and indicates whether the government would be prepared to accept any amendment or not. He also indicates if the government would make any concession along the lines advocated by the Opposition. But the Chairman's leadership and guidance ensure that the Opposition at any rate has a fair play. It is his business to maintain balance between the tyranny of the majority and the obstructive tactics of the minority.

The third feature is that the Committee in England is invariably a Committee of laymen. The Committees are not specialised Committees like those in the U.S.A. or France.<sup>15</sup> The members of the Standing Committee lack the opportunity to make a continuous study, extending perhaps from one session to another of a particular branch of policy as do the members of the Select Committees. Notable exceptions to this general impression are the Scottish Standing Committee

14. The Chairmen's panel is a recognised institution in the House of Commons. It holds meetings and makes reports and recommendations to the House from time to time on procedural questions and particularly upon the Working of Standing Committees. See K. C. Wheare, *op. cit.*, p. 125.

15. The Committees in U.S. and France are called specialised ones in the sense that they are Committees set up to deal with Bills relating to particular fields of governmental activity and also in the sense that continued membership makes them experts.

and the three specialised Committees on Public Accounts, Estimates, and Statutory Instruments. In the Standing Committees, specialisation is not possible in the House of Commons because the Committees named by the letters of the alphabet A, B, C, D, E and so on, are assigned to study and examine a wide variety of subjects. Even the Scottish Standing Committee considers Bills covering a wide range.

It does not mean, however, that the Standing Committees consist of no members at all with specialised knowledge or interest in the subject of the Bill which is referred to them for consideration. A Standing Order of the House of Commons empowers the Committee of Selection to add to the nucleus of the members of the Standing Committees.<sup>16</sup> The Committee of Selection does not proceed in the abstract and choose members regardless of nature of the Bill which the Committee will consider. But in spite of such arrangements, the lack of adequate number of experienced and interested persons for all the Standing Committees makes them Committees of laymen. The problem in the British system is that the members with special knowledge and interest are brought to Bills whereas in the American and French systems the Bills go to the members with special knowledge and interest. The Standing Committees may consist of some specialists and representatives of interests.

The fourth feature of the Committees is the provision of secretarial services. A senior clerk of the House of Commons is invariably attached to each Committee as the Secretary of the Committee. His duties are to advise the Chairman on the questions of procedure and to keep the formal records of the Committee. He is expected to feed the Committee in its work. Some Committees like the Committee on Public Accounts receive the expert assistance of the Auditor-General etc. The Chairman consults these experts and advisers before the sittings of a Committee, and throughout the sittings he seeks further advice from them. The assistance of experts is

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16. Standing Order No. 58.

available to the Chairman even on rulings on points of order, intricate questions and precedents.

The fifth feature of the Standing Committees in Britain is that hearing of evidence is no part of the proceedings. In the U.S.A. and France all interested parties or partisans are allowed to urge their view-points. Sometimes evidence is called for, though it is true that such occasions are not rare.

## VI

Thus a study of the Committee system is an important part of the study of a deliberative body. They are an intimate and intricate part of the legislative and even the governmental process. While they are a necessary part of any constitutional working, the part played by them differs from country to country ; and there are also different kinds of Committees in any country serving different purposes. They help, they guide, and they fulfil the many purposes of the legislative organ. In short, they perform, to borrow a term from public Administration, staff functions ; they are an extension of the personality of the legislature.

The effectiveness of the Committee system would depend mainly upon three things : first, the bringing together within the Committee of a sufficient number of members of all parties who would be prepared to take real interest in the subjects to be dealt with ; secondly, ensuring a degree of continuity of membership and attendance as this would enable the members to gain that intimate and wide knowledge of their subjects which would give them power to control ; and thirdly, building up an atmosphere of common endeavour in the Committees based upon a desire to develop the best administration possible.<sup>17</sup>

In many respects our Parliament in India is following the practices of the House of Commons of the United Kingdom. In the following chapters we discuss the Committee system in India. The next chapter deals with the Committees in General.

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17. Sir Stafford Cripps, *Democracy Up-to-date*, p. 11.

## CHAPTER II

### COMMITTEES OF LOK SABHA IN GENERAL

Lok Sabha's main problem is, as in the case of its sister institutions in the rest of the world, how to complete its business and how to ensure accountability. In keeping with its expanding activities connected with the Five Year Plans and other welfare functions, increased responsibilities have been devolved upon it; and so it employs a number of Committees, like other representative and deliberative bodies, to relieve it from the heavy burden of its work and to transact on its behalf a great deal of its business. Both the pre-Independence Legislative Assemblies and the Dominion Legislature (1947-1950) in India used to employ the Committee system. Thus in a way Lok Sabha just continues the practice.

The Constitution of India, however, does not specifically provide for the appointment of such Committees except in an indirect way. Thus while granting immunity to Members of Parliament from liability to any proceedings in any court in respect of anything said or any vote given by them, the Constitution extends this privilege also to the members of the "Committees thereof".<sup>1</sup> Again, after enumerating certain powers, privileges and immunities of Parliament and its members, the Constitution provides that "in other respects, the powers, privileges and immunities of each House of Parliament, and of the members and the Committees of each House, shall be such as may from time to time be defined by Parliament by law, and until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and Committees, at the commencement of the Constitution."<sup>2</sup>

The power to appoint Committees may be said to be also

1. Article 105 (2) and (3)
2. Article 105 (3).

implied. The Constitution empowers each House of Parliament to make Rules for regulating, subject to the provisions of the Constitution, its Procedure and the conduct of Business.<sup>3</sup> Lok Sabha has adopted its Rules of Procedure and Conduct of Business, and taking advantage of the experience elsewhere and in India, it has provided in the Rules for the appointment of various Parliamentary Committees, from its very inception. They are called Parliamentary Committees because they are "appointed or elected by the House or nominated by the Speaker" and work "under the direction of the Speaker,"<sup>4</sup> and they are composed entirely of members of Parliament and they report directly to the House appointing them. As against these Parliamentary Committees there are Committees where Lok Sabha is represented, like the All-India Council for Technical Education, All-India Institute of Medical Sciences, Central Advisory Committee of the National Cadet Corps etc. but they are not called Parliamentary Committees.

The Committees of Lok Sabha may be classified into two broad categories, viz. Standing Committees<sup>5</sup> and ad hoc Committees. The standing Committees are those Committees of Lok Sabha which are appointed by the Speaker in pursuance of the Rules of Procedure of the House and continue to remain in office irrespective of the completion of their business. There is a little permanence in their tenure. They deal with specific business of the House, while the ad hoc Committees are most temporary and cease to exist after the completion of their work. The latter are asked to perform such specific functions as are assigned to them each from time to time. But really it is in these ad hoc Committees that the actual parlia-

3. Article 118 (1).

4. Rule 2 (i)—Rules of Procedure and Conduct of Business in Lok Sabha, 5th Edition 1957

5. The Standing Committees of Lok Sabha may not be confused with the Standing Committees of House of Commons. In the case of the latter, they consider mostly the Public Bills whereas the former Committees mostly excepting some, deal with "other business" (other than Public Bills.).

mentary (Legislative) business is thoroughly analysed and discussed. They may be also called Special Committees.

The Standing Committees may be further classified in the following way taking their functions into consideration<sup>6</sup> :

1. Committees to inquire—under this category come (a) Committee on Petitions ; and (b) Committee of Privileges.
2. Committees to scrutinise—under this category comes Committee on Government Assurances.
3. Committees to control—under this category come (a) Committee on Subordinate Legislation ; (b) Estimate Committee ; and (c) Public Accounts Committee.
4. Committees to advise—under this category come (a) Business Advisory Committee ; (b) Committee on Private Members' Bills and Resolutions ; (c) Rules Committee ; and (d) Committee on Absence of Members from the Sittings of the House.
5. House-Keeping Committees—under this category come (a) House Committee ; (b) Library Committee ; (c) Joint Committee on Salaries and Allowances of Members of Parliament ; and (d) General Purposes Committee.

The ad hoc Committees may be further classified under two heads : (a) Regular ad hoc Committees ; (b) and Incidental ad hoc Committees. Select Committees on Bills and Joint Committees are included under the former. Joint Committees are a common practice with many bicameral legislatures to deal with matters of common interest. This practice saves time, avoids duplication of proceedings and aids to develop

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6. As to English Committees, Wheare classifies them as follows : (a) Committees to advise, (b) Committees to inquire, (c) Committees to negotiate, (d) Committees to legislate (e) Committees to administer, (f) Committees to scrutinise and control. see K. C. Wheare, *Government by Committee*, (1955).

good understanding between the Houses. Incidental ad hoc Committees are appointed when special circumstances demand. They are incidental to certain problems facing the House. The significant instances of such incidental ad hoc Committees are the Committee on Offices of Profit, the Railway Convention Committee, the Committees on the Draft Second and Third Five Year Plans, the Committee to fix Hindi Equivalents and the Committee to advise on Warrant of Precedence of Members of Parliament.

Though Lok Sabha seems well served with a number of Committees compared with other Legislatures, certain well-known Committees are not found here. Conspicuous by its absence is the Committee of the Whole House. Lok Sabha has departed from this British, Dominion and U.S. practice. Another notable absentee is the Standing Advisory Committees in respect of each Ministry of the Government which were a regular feature in Pre-Independence days. They have been abolished since the inception of the First Lok Sabha. Similarly we do not have any Committees that try to control or supplement or supervise the executive in the same manner as in the U.S.A. or France.

## II

The members of a Committee of either kind are appointed or elected by the House or nominated by the Speaker, as the case may be. No member shall be appointed to a Committee if he is not willing to serve on it. It may be noted here that appointment of members to different Committees by nomination extends to all Standing Committees except the financial Committees. The number of members in the different Committees is not uniform. Majority of the Standing Committees have fifteen members each. The minimum number is nine, in the case of the Library Committee. In the case of Joint Standing Committees, the members are nominated by the Speaker of Lok Sabha and the Chairman of Rajya Sabha respectively in the proportion of two to one.

The following table illustrates the position :<sup>7</sup>

Sl. Name of the Standing No. Committee	No. of members in the Committee.	How appointed
1. Committee on petitions.	15	Nominated by the Speaker.
2. Committee of privileges.	15	do
3. Committee on Sub-ordinate legislation.	15	do
4. Committee on Absence of Members.	15	do
5. Committee on Private Members' Bills and Resolutions.	15	do
6. Rules Committee.	15	do
7. Business Advisory Committee	15	do
8. House Committee.	12	do
9. General Purposes Committee.	20	do
10. Committee on Assurances.	15	do
11. Library Committee.	9	Nominated by the Speaker & the Chairman.
12. Committee on Members' Salaries and Allowances.	15	Nominated by the Speaker & the Chairman.
13. Estimates Committee.	30	Elected by the House.
14. Public Accounts Committee.	22	Elected by Lok Sabha (15) and Rajya Sabha (7).

7. Gathered from the Rules of Procedure and Conduct of Business in Lok Sabha, 1957 (5th Edition).

Casual vacancies are filled up by appointment or election by the House or by nomination by the Speaker, as the case may be, and any member appointed, elected or nominated to fill such a vacancy holds Office for the unexpired portion of the term of the original member.<sup>8</sup>

Election of members to the Estimates and Public Accounts Committees is by the system of proportional representation by means of the single transferable vote.<sup>9</sup> The members of the ad hoc Committees are chosen by a motion adopted by the House. The Joint Committees are chosen by a motion of one House with the concurrence of the other. In all these cases, ordinarily prior consent of the persons concerned is obtained. The choice of members is also restricted to those who are known to have made some special study or have special interest in the matter. The whips of the parties and the leaders of the Parliamentary groups are also consulted before the proposal to set up the Committees is mooted. The Speaker normally nominates the members to various Standing Committees in proportion to the strength of the parties in Lok Sabha.

The following table, taken as a sample case, would illustrate the point approximately. It covers the period 1957-1960 of Second Lok Sabha.

One thing is clear from the table that the Congress party gets two-thirds of the the total membership except in the case of General Purposes Committee where it has half the

Sl. No.	Standing Committees	Total members	Numbers of members party wise				
			Congress	PSP	CPI	others	Ind.
1.	Business Advisory	15	10	1	1	2	1
2.	Privileges	15	10	1	1	2	1
3.	On Absence of members.	15	10	1	1	1	2

8. Rule 254 (3).

9. Rule 309 (1)

Sl. No.	Standing Committees	Total members	Numbers of mebers party wise				
			Congress	PSP	CPI	others	Ind.
4.	Government						
	Assurances.	15	10	1	—	2	2
5.	Petitions.	15	10	—	1	—	4
6.	Private Members						
	Bills.	15	10	1	—	3	1
7.	Subordinate						
	Legislation.	15	10	1	1	1	2
8.	General Purposes.	20	10	2	2	2	4
9.	House Committee.	12	8	1	1	1	1
10.	Salary and						
	Allowances	15	7	1	1	—	1
	(L. S.) Lok Sabha 10		(L.S.)	(L.S.)	(L.S.)		(L.S.)
	* Rajya Sabha 5.						
11.	Rules.	15	10	1	1	1	2

membership, Communists and Praja Socialists get one each and Independents are also represented.<sup>10</sup>

One important question that arises here is whether the members of the Standing Committees are specialists or laymen. The answer depends on what we mean by laymen. If by laymen we understand 'at they have no academic qualification and therefore they are not specialists or experts in the matter, the Committees, no doubt, consist largely of laymen. But if it is to be understood in terms of their experience, most of the Indian Standing Committees consist of members who have distinguished themselves as Committee-men earlier. The following table taken as a sample case, would illustrate the point.<sup>11</sup>

10. The party composition in the House, (Second Lok Sabha) is as follows : -Congress—366, Praja Socialists—20, Communists—27, Other minor parties—41, and Independents—44. This excludes the 6 members nominated by the President. See for details "India 1959", p. 65.

11. Prepared from the Reports of the Committees and other bodies on which Lok Sabha is represented wholly or partially published by Lok Sabha Sectt. (AB/CB. 73, 14, 28, 51, 81, 97, 7 (II-III, CC 7, CB 1) No. 141. Information on the Library Committee is not given here.

Serial No	Name of the Committee	No of total members	No of new members	P C of 4 to 3	No of members having one year's experience	P C of 6 to 3	No of members having experience of 2 years	P C of 8 to 3	No of members having experience of more than 2 years	P C of 10 to 3	REMARKS
1	2	3	4	5	6	7	8	9	10	11	12
1.	Business Advisory Committee	15	5	33.0	2	13.2			8	53.8	
2.	Committee of Privileges.	15	4	26.4	2	13.2			9	59.4	
3.	Committee of Absence of Members.	15	3	19.8	3	19.8			9	59.4	
4.	Committee on Government Assurances.	15	3	19.8	3	19.8	1	6.6	8	53.8	
5.	Committee on Petitions.	15	5	33.0	2	13.2	1	6.6	7	46.2	
6.	Committee on Private Members' Bill.	15	4	26.4	4	26.4			7	46.2	

# COMMITTEES OF LOK SABHA IN GENERAL

17.

Serial No.	Name of the Committee	No of total members	N <sup>o</sup> of new members	P C. of 4 to 3	No of members having one year's experience	P C. of 6 to 3	No of members having experience of 2 years	P C. of 8 to 3	No of members having experience of more than 2 years	P C. of 10 to 3	REMARKS
1	2	3	4	5	6	7	8	9	10	11	12
7.	Committee on Subordinate Legislation.	15	3	19.8	3	19.8	3	19.8	6	39.6	
8.	General Purposes Committee.	20	4	20.0	1	6.6			15	75.0	
9.	House Committee.	12	2	16.8	3	24.9	3	24.9	4	33.2	
10.	Joint Committee on Salary and Allowances	15	6	39.6	1	6.6	1	6.6	7	46.2	
11.	Rules Committee.	15	3	19.8	4	26.4			8	53.8	
12.	Estimates Committee.	30	13	42.9	15	50.0			2	6.6	
13.	Public Accounts Committee.	22	12	54.0	8	37.0	2	9.0	—	—	

From the above table it may be seen that the Committees which are appointed by the Speaker include more number of experienced members than those which are elected by the House. For instance, the Committee of Privileges consists of about sixty per cent of members who have more than two years' experience in Committee work. The General Purposes Committee, though quite a minor one, consists of 75 per cent of members having more than two years' experience. The 11th column in the above table indicates the extent of continuity of service of the members in the Committee and the percentage thereof. The art of election, it may be found, has reduced the percentage of members having more than two years' experience to about 7 in the case of the Estimates Committee and nil in the case of the Public Accounts Committee. The Chairman of the Estimates Committee has only one year's experience. It may be found from the table above that the members in the Financial Committees are not normally assured of the continuity in their tenure because they are elected by the House and in those cases where the Speaker has been given the power to nominate, the continuity of service has been ensured.

In the case of the Financial Committees, the House perhaps wants to fill them by election in order to make them more representative in character or it may be that since these Committees are performing the task of controlling the executive excess, their members should be elected by the House. If the former is true, then all the Committees should be elected because all of them are directly assisting the House by transacting important business. In case the latter is true then there are other Committees which are entrusted to control the excesses of the executive but where the Speaker nominates the members; and they are working with equal efficiency. For instance, the Committee on Sub-ordinate Legislation is an important Committee which is equally intended to control executive excesses. If such important Committees could be left to the Speaker for nomination, there should be no ostensible difficulty to authorise the Presiding Officers to do likewise in the case of the Estimates Committee and Public

Accounts Committee. The Presiding Officer could ensure continuity of membership in as much as he could ensure elsewhere. New members would certainly take some time before they pick up their work and by the time they understand the techniques of financial administration and control, their one-year term expires. This difficulty of non-continuity of membership defeats the purpose of the Committee system. Of course there may be one or two persons who might be experienced, but that number is not enough. It is very difficult for the new entrants to exercise control on behalf of the Parliament over the experts representing the Ministry.

Much of the effectiveness of a Committee, however, depends on the efficiency with which it is led. Thus the Chairman of a Committee occupies an important key position in this "Government by Committee."

The Chairman of a Committee of Lok Sabha is appointed by the Speaker from among the members of the Committee.<sup>12</sup> If the Deputy Speaker happens to be a member of the Committee (and the Speaker is not a member), he shall be appointed Chairman. If the Chairman is absent from any sitting, the Committee shall choose one of its members to act as Chairman for that sitting. The Speaker's power to offer this honour to a member of his choice is never circumscribed and is exercised with discretion. Thus during the past decade, it may be noticed, the Speaker has appointed the Chairman of the various Committees from among experienced people. It may be further noticed that the Chairmanship ordinarily goes to a member belonging to the party in power. Considerations of age and qualifications are also apparent from the selections made so far. Fortunately, it is not done state-wise or community-wise, and there is no reason why such a course should be adopted. The details regarding the Chairmanship of each of the Committees have been given in the appropriate Chapters.

The quorum to constitute a sitting of a Committee is fixed,

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12. Rule 258.

*as nearly as may be, at one-third of the total membership.*<sup>13</sup> If there is no quorum, the Chairman of the Committee shall either suspend the sittings until there is a quorum or adjourn the sitting to some future day. When the Committee has been adjourned in pursuance of the said provision on two successive dates fixed for sittings of the Committee, the Chairman shall report the fact to the House, or to the Speaker if the Committee is constituted by the Speaker. If a member is absent from two or more consecutive sittings of a Committee without the permission of the Chairman, a motion may be moved in the House for the discharge of such a member from the Committee. In case the members of the Committee are nominated by the Speaker, such members may be discharged by the Speaker without a reference to the House.

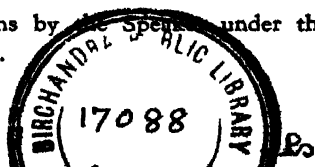
The sittings of a Committee may be held on such days and at such hour as the Chairman of the Committee determines ; and if he is not readily available, the Secretary of the Committee may fix the date and time.<sup>14</sup> The Rules made by the House permit a Committee to sit whilst the House is sitting, though on a division being called in the House, the Chairman of the Committee shall suspend the proceedings in the Committee for such time as will in his opinion enable the members to take part in a division.<sup>15</sup> But the Speaker has issued a direction to the effect that no sitting of a Committee, unless the Speaker otherwise permits, shall be held after the commencement of a sitting of the House and before 3 p.m. on any day when the House is sitting,<sup>16</sup> and this he did notwithstanding the other Rule that the Rules of the House cannot be superseded by the Speaker's Directions. This contradiction has been resolved by the practice that the Speaker usually gives

13. Rule 259.

14. Rule 264. The Secretary of Lok Sabha or one of his deputies is ex-officio Secretary of the Committee.

15. Rule 265.

16. Speaker's Direction No. 51, Directions by the Speaker under the Rules of Procedure of Lok Sabha, 1957, p. 31.



*such permission. But in no case a Committee is allowed to meet during the question hour.*<sup>17</sup>

The sittings of a Committee are held within the precincts of the Parliament House. There is a Committee room there and it is more suitable than any other place. The Parliament Secretariat with its staff and equipment, records, papers and precedents, are readily available whenever necessary. Therefore, the Speaker has issued a direction that sittings of a Committee or Sub-Committees thereof whether formal or informal, at which Officers or Staff of the Lok Sabha Secretariat are required to be present, shall invariably be held within the precincts of the Parliament House. If, for any reason, it becomes necessary to hold a sitting outside the Parliament House, the matter shall be referred to the Speaker for his direction.<sup>18</sup> When the Committee is on a study tour, informal sittings may be held at the place of the visit, but at such sittings no decisions shall be taken nor any evidence recorded.<sup>19</sup> A comment seems invited here, by the way. In case the Committee is on tour, it may sometimes become advantageous to take evidence on the spot. This would save much of the time of the members as well as of the persons called upon to tender evidence and probably they could extract more information. Of course, the Committee would not lose anything if a decision is not taken on the spot. It would be paying if the decisions are deferred till they reach Delhi where other expert and technical assistance is available.

It may be noted that occasionally a Committee finds it convenient to hold a sitting outside the precincts of the House to enjoy the advantage of examining records which cannot be removed from its place or where a member of the Committee is sick or the witness is unable to move from his place of residence.

The rules specifically provide that the sittings of a Committee shall be held in private.<sup>20</sup> All persons other than

17. House of the People Debates, Vol. V (1956).

18. Rule 267 His decision is final.

19. Speaker's Direction No. 50 (2).

20. Rules 266 and 268.

the members of the Committee and Officers of the Lok Sabha Secretariat, are required to withdraw whenever the Committee is deliberating. Besides, the proceedings of a Committee are treated as confidential and it shall not be permissible for a member of the Committee or anyone who has access to its proceedings, to communicate, directly or indirectly, to the press any information regarding its proceedings including its report or any conclusions arrived at, finally or tentatively, before the report has been presented to the House. The Speaker has issued a direction that whenever a paper or document marked 'Secret' or 'Confidential' is circulated to the members of the Committee, the contents of such a paper or document shall not be divulged by any member either in the minute of dissent or on the floor of the House, or otherwise, without the permission of the Speaker.<sup>21</sup> Where such permission has been obtained, any restriction imposed by the Speaker in regard to the manner in which, or the extent to which, the information contained in the document may be divulged, is to be strictly observed. Premature publication of proceedings of a Committee or any part of the report before it is presented to the House, is a breach of privilege.<sup>22</sup>

Committees have power to take evidence or call for documents. Witnesses may be summoned by an order signed by the Secretary and they shall produce such documents as are required for the use of the Committee. It is left to the discretion of the Committee to treat any evidence tendered before it as secret or confidential. No document submitted to the Committee may be withdrawn or altered without the knowledge and approval of the Committee. A Committee has the power to send for persons, papers and records. If any question arises whether the evidence of a person or production of a document is relevant for the purposes of the Committee, the question is to be referred to the Speaker whose decision

21. Speaker's Direction No. 55.

22. 7th Report of the Privilege Committee of House of the People. December 1958, pp. 9—11.

is final.<sup>23</sup> Since the Committee works on behalf of the House, disobedience to its orders would amount to a breach of privilege. Again it constitutes a breach of privilege if a person fails to appear before a Committee on process regular on its face, issued by the appropriate Officer of the Committee under general authority conferred upon him by the Committee, either expressly or by usage, either with or without specific authority in the particular case.

A Committee has the power to permit, under the direction of the Speaker, a witness to be heard by a counsel appointed by him and approved by the Committee.<sup>24</sup> This general power of approving the name of the counsel includes also withdrawal of approval when the Counsel's conduct is considered to be undesirable.

It has been left to the consideration of the Government to decline to produce a document on the ground that its disclosure would be prejudicial to 'Public interest'. It may be observed here that in the case of defence matters where the government declines to produce a document on the ground that its disclosure would be against the safety and interest of the State, the general direction of the Speaker makes it obligatory to make a reference to him for his decision.<sup>25</sup>

It may be that some interested party requests the Committees to take evidence from him. The witnesses who express their desire to appear before the Committee are required to supply sufficient number of copies of written memoranda for circulation to the members of the Committee who may consider the same at their sitting and then decide whether such witnesses should be called to appear before the Committee. Evidence is taken on oath.<sup>26</sup>

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23. Rule 269 and 270.

24. Rule 271.

25. Speaker's Direction No 101 (V) (b) and (VI).

26. The form of the oath is as follows: 'I swear in the presence of Almighty God (or Solemnly affirm) that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no part of my evidence shall be false. So help me God.' This has been set by Rule 272(2)

When a witness appears before a Committee to give evidence, the Chairman shall make it clear to him that his evidence shall be treated as public and liable to be published unless he specifically desires that all or any part of the evidence tendered by him is to be treated as confidential. It is, however, to be noted ( and explained to the witnesses) that even though they might desire their evidence to be treated as confidential, such evidence is liable to be made available to the members of Parliament.

Where a Ministry or Department is required to tender evidence before a Committee on any matter, the Ministry or Department is represented by the Secretary or the Head of the Department, as the case may be. There is, however, no bar, on a request being made, to permit any other senior officer to represent the Ministry or Department before the Committee. The Committee always requires the Ministry or Department to furnish to the Lok Sabha Secretariat a sufficient number of copies of any memorandum containing its views on the matter under discussion for circulation to members of the Committee in advance. A resume of the evidence tendered by the representative of the Ministry or Department may be embodied in or appended to the minutes of the sittings.

There may be occasions when a State Government official would be called upon to appear before a Committee and/or produce records. The Speaker has directed that in such cases or in cases where a State Government is asked to produce a document or paper before the Committee, orders of the Speaker shall be obtained before the State official or State Government is called upon to comply with the request.<sup>27</sup>

The Committees consider, in the first instance, the memoranda supplied by the witnesses and decide on the nature of questions that may be put to the witnesses for clarification of any points included in their memoranda.

When a Committee examines a witness, Rules require that the following procedure is to be followed<sup>28</sup> :

27. Speakers' Direction No. 60. The Speaker might decide that it is not necessary to summon such State officers.
28. Rule 273.

1. The Committee shall, before a witness is called for examination, decide the mode of procedure and the nature of questions that may be asked of the witness.

2. The Chairman of the Committee may first ask the witness such question or questions as he may consider necessary with reference to the subject-matter under consideration or any subject connected therewith according to the mode of procedure determined earlier.

3. The Chairman may call upon the other members of the Committee one by one to ask any other questions.

4. A witness may be asked to place before the Committee any other relevant points that have not been covered and which a witness thinks are essential to be placed before the Committee.

5. A verbatim record of proceedings of the Committee shall, when a witness is summoned to give evidence, be kept.

6. The evidence tendered before the Committee may be made available to all members of the Committee.

If in the opinion of the Chairman a document, such as a representation, memorandum etc., presented to a Committee, contains words, phrases or expressions which are unparliamentary, irrelevant or are not couched in respectful, decorous and temperate language, or are otherwise inappropriate, he may order such words, phrases or expressions to be expunged from such a document<sup>29</sup>. The Speaker also has the power to order expunctions in like circumstances or to review all decisions regarding expunction from such documents and his decision thereon shall be final<sup>30</sup>.

The verbatim proceedings of the Committee, if taken, are treated as confidential and are not made available to an outsider without the orders of the Speaker.

The relevant portions of the verbatim proceedings of the sitting at which evidence has been tendered by a representative of a Ministry or Department, shall be forwarded to the members and the Officers tendering evidence for correction

29. Speaker's Direction No 64(1)

30. Ibid. p (2)

and return by a date fixed by the Lok Sabha Secretariat. If corrected copies of the proceedings are not received back by the specified date, the reporter's copy may be treated as authentic.

The decisions of a Committee are recorded briefly in the minutes of the Committee and circulated to its members under the direction of the Chairman. The draft minutes are prepared by the Lok Sabha Secretariat and approved by the Chairman. Relevant extracts therefrom may also be circulated to any Ministry or Officer, if considered necessary. If any member of the Committee desires any alteration in the minutes, on the ground that they are not in conformity with the decisions arrived at, the matter shall be referred to the next sitting of the Committee and the decision of the Committee taken thereon shall be incorporated in the minutes of the sitting. Until the minutes are presented to the House, they shall be treated as confidential. After the minutes of a sitting or sittings of a Committee have been approved by the Chairman or, in his absence, by the member of the Committee who presided at the sitting or sittings, as the case may be, an authenticated copy thereof may be laid on the Table of the House along with the report.

### III.

Let us now turn to the reports of the Committees. The draft of the report is prepared by the Lok Sabha Secretariat and is placed before the Committee after it is approved by the Chairman. As approved by the Committees, the report is to be presented to the House or to the Speaker, as the case may be, from time to time. The Committee may, if it thinks fit, make a special report on any matter that arises or comes to light in the course of its work which it may consider necessary to bring to the notice of the Speaker or the House, notwithstanding that such a matter is not directly connected with, or does not fall within its scope or is not incidental to its terms of reference.

The Chairman of the Committee may direct what the typed

or cyclostyled or proof copies of the draft report together with any other documents connected therewith, be circulated amongst the members of the Committee before the date fixed for the consideration of the draft report. On the date fixed for the consideration of the draft report, the Chairman shall read out the draft report, paragraph by paragraph, putting the question to the Committee at the end of each paragraph, "That the paragraph do stand part of the report." A member objecting to any portion of the report as not being in conformity with the decision arrived at, shall propose his amendment to bring it in line with the decisions. The amendment, if accepted, shall be incorporated in the said paragraph. The Speaker has issued a direction that "There shall be no minute of dissent to the report".<sup>31</sup> This, of course, is relaxed in the case of Reports of Select Committees and other Committees where the Rules or Directions specially permit to that effect. The Committee is required to mention in the report, whenever necessary, the fact that evidence was tendered before it. The record of evidence, if so decided by the Committee, shall be printed and copies thereof circulated to all members of the House. It is the practice that the Chairman signs the report on behalf of the Committee. When the Chairman is absent or is not available, the Committee shall choose another member to sign the report on behalf of the Committee. It is the standing instruction issued by the Speaker that the report, together with the documents connected therewith, if any, shall be printed before or after presentation to the House or the Speaker, as the case may be.

The Rules provide that where the House has not fixed any time for the presentation of a report by a Committee, the report shall be presented within one month or the date on which reference to the Committee was made.<sup>32</sup> The House may at any time on a motion being made, direct that the time for the presentation of the report by the Committee be extended to a

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31. Speaker's Direction No. 68(3)

32. Rule 277.

date specified in the motion. Reports may be either preliminary or final.

The Committee, if it thinks fit, may make available to Government any completed part of its report before it is presented to the House. Such reports shall be treated as confidential until presented to the House. The Rules provide that the report of the Committee shall be presented to the House by the Chairman or in his absence by any member of the Committee. In presenting the report the Chairman or in his absence the member presenting the report shall, if he makes any remarks, confine himself to a brief statement of fact ; but there shall be no debate on that statement at this stage. As soon as possible after presentation of the report to the House, printed copies of the report are circulated to members of Lok Sabha and the Ministries of the Government of India and to such other persons, authorities etc. as may be determined by the Speaker from time to time.

When the House is not in session, the Speaker may, on a request being made by the Chairman, order the printing, publication or circulation of the report although it has not been presented to the House. In that case the report shall be presented to the House during its next session at the first convenient opportunity. Where a report of a Committee is circulated to members of Lok Sabha prior to its presentation to the House, it is released to the press after a week from the date of despatch of copies to members.

#### IV.

A Committee has the power to determine its own procedure subject to the Rules of the House,<sup>33</sup> and the approval of the Speaker. The Speaker is entrusted with the power of approval, obviously, to bring uniformity in procedure in general. The Committee makes its Rules of Procedure by passing resolutions to that effect and submits them for the consideration of the Speaker, who may make such variations in procedure as he

may consider necessary.<sup>34</sup> Committees have general powers to make, with the approval of the Speaker, detailed rules of their own procedure to supplement the provisions contained in the Rules of Procedure made by the House.

Besides, the Speaker has the power to issue, from time to time, such directions to the Chairman of a Committee as he may consider necessary for regulating its procedure and the organisation of its work. In case of any doubt on any point of procedure or otherwise, the Chairman may, if he thinks fit, refer the point to the Speaker whose decision shall be final.

As regards the procedure at a sitting of the Committee, the Speaker has issued instructions that a member desiring to make any observations at the sitting of a Committee shall address the Chairman and make all remarks to other members through the Chairman. A member shall not speak unless the Chairman calls his name. When any member desires to interrupt while another member is speaking, he shall seek the permission of the Chairman to do so. If the Chairman considers that sufficient discussion has taken place on a question, he may without further discussion, put the question to vote and arrive at a decision. All questions at any sitting of a Committee shall be determined by a majority of votes of the members present and voting.<sup>35</sup> In case of equality of votes on any matter, the Chairman, or the person acting as such, shall have a second or casting vote. If a member desires to reopen a question on which the Committee has already taken a decision, he shall in the first instance obtain the permission of the Chairman to do so. These are the simple procedures prescribed by the House and the Speaker. The Committees have made their own rules of procedures in many cases.

The Committees have been given the general power to appoint one or more sub-Committees, each having the powers of the undivided Committee to examine any matters that may be referred to them, and the reports of such sub-Committees shall be deemed to be the reports of the whole Committee if

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34. Rule 281.

35. Rule 261.

they are approved at a sitting of the whole Committee. The order of reference to a Sub-Committee shall clearly state the point or points for investigation. The report of the sub-Committee shall be considered by the whole Committee. The Chairman of the Committee appoints the Chairman of the Sub-Committee.<sup>36</sup> The report of the Sub-Committee duly signed by its Chairman on behalf of the Sub-Committee, is submitted within the prescribed period, and copies of the same are made available to all members of the Committee before they meet to consider it.

Another important point to be noted here is that any business pending before a Committee shall not lapse by reason only of the prorogation of the House.<sup>37</sup> A dissolution of the House, however, means the end of all Committees. But the Rules provide that for any unfinished work, a Committee before the expiration of its term or before the dissolution of the House may report to the House that the Committee has not been able to complete its work. Any preliminary report, memorandum or note that the Committee may have prepared or any evidence that the Committee may have taken, shall be made available to any new Committee which may be constituted later. Hence there may be no lapse in the continuity of work of a Committee on its dissolution or that of the House.

Before we close this chapter it may be clearly kept in mind that the following are the principal objectives, as the Speaker held,<sup>38</sup> of the Parliamentary Committees :

- (i) To associate with and train as large a number of members as possible, not only in the ways in which the administration is carried on, but also to make them conversant with the various problems that Government have to meet from day to day ;
- (ii) To exercise control on the executive so that they do not become oppressive or arbitrary ;

36. Speaker's Direction No. 56(2).

37. Rule 284.

38. Shri G. V. Mavalankar on 18th April, 1950 at the first meeting of the Estimates Committee, 1950.

- (iii) To influence the policies of Government ; and
- (iv) To act as a liaison between the Government and the general public.

The survey made above clearly indicates how far the Committees are equipped to address themselves to the tasks assigned to them. Except for matters for which special provision is made in the Rules relating to any particular Committee, the general Rules discussed above shall apply to all Committees.

It remains now to study in detail, in the following chapters, the nature, composition and functioning of the various Committees of Lok Sabha and to assess the extent to which each of the Committees has been able to make its own contribution in helping the House to fulfil its objectives and in helping the very working of the Parliamentary system of Government that our Constitution tries to establish.

## CHAPTER III

### COMMITTEE ON PETITIONS

#### I

The institution of petition, the oldest of all parliamentary forms, the fertile seed of all the proceedings of the Parliament, has "but little life" at the present day in England. During the period of Estates in England, Petition was the "sole form of parliamentary activity",<sup>1</sup> and subsequently Bills became the normal form.

The right of petitioning the Crown and Parliament in the United Kingdom for redress of grievances, is acknowledged as a fundamental principle of the constitution, and has been uninterruptedly exercised from very early times. The petitions were presented specially for the redress of those grievances which were beyond the jurisdiction of the Common Law Courts. During this period, petitions were, with few exceptions, for the redress of private wrongs; and the mode of receiving and "trying" them was judicial rather than legislative. Receivers of petitions were appointed, who transmitted them to the "triers".<sup>2</sup> The triers examined these petitions and if the common law offered no redress, they were submitted to the High Court of Parliament.

The courts of equity subsequently relieved Parliament of much of its remedial jurisdiction, and then petitions became more in the nature of petitions for private Bills than for equitable remedies for private wrongs. As the limits of judicature and legislature became defined later, petitions were applied more distinctly for legislative remedies and were preferred to Parliament.<sup>3</sup>

1. Redlich, *op. cit.*, p. 239.

2. (a) Receivers were ordinarily the masters in Chancery who, sitting in some public place accessible to the people, received their complaints.  
(b) Triers were committees of peers or judges (See May, *op. cit.*, p. 608).

3. May, *Parliamentary Practice*, (1924), p. 609.

Besides individual petitions, there was the "comprehensive" Commons' petition.<sup>4</sup> This was a single document presented by the Commons embodying a number of requests as articles. The first example of such a petition is one of eleven articles presented to the King at Westminster<sup>5</sup> in 1309. After 1422 the "comprehensive" petition ceased to exist and was replaced by separate petitions. By the last half of the 15th century, the Commons' petitions ceased to be subjected to the process of examination by "triers" like individual petitions, and were presented direct to the King-in-Council. Then the Commons attempted to secure the enactment of their petitions as statutes in the form in which they were submitted to the King. In the famous petition of 1414 they claimed to be "as well assenters as petitioners", and requested that their petitions should be enacted as statutes without any change of substance except with their assent.<sup>6</sup> Later on petitions were drafted in the shape of statutes to replace the old form of petition.

While the adoption of the procedure of comprehensive petitions by the Commons gradually made the functions of Parliament predominantly legislative, the older individual petitions, which invoked the remedial jurisdiction of Parliament, remained unaffected.<sup>7</sup> In early times, all petitions prayed for the redress of some specific grievances but after the Revolution of 1688, the present practice of petitioning, in respect of general measures of public policy, had been gradually introduced.<sup>8</sup>

The petitions grew in number and were made the occasion for unlimited debates on public and private subjects of all kinds.<sup>9</sup>

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4. *Campion*, op. cit., p. 11.

5. *Gray*, *Influence of the Commons in English Legislation*, (1932) p. 203.

6. *Ibid* pp. 261-85.

7. *Campion*, op. cit., p. 13.

8. *May*, op. cit., p. 610.

9. In the five years ending in 1740 there were 880 petitions, and in the five years ending with 1805 there were 1026. The period 1811-1815 produced, 4-498, and the one 1828-1832 no less than 23-283. Then in the period 1811-1847 there was the unprecedented number of 81-985. *Redlich*, op. cit., p. 75.

But later on due to the development of courts of justice and administrative bodies, the value of petition as a protection against denial of rights had disappeared. So too petitions as a means of calling attention to public grievances had lost much of their importance due to the growth of the press and freedom of combination and assembly.

In the earlier days it was the practice for petitions to be read by the members who presented them to the House, and they often gave occasion for protracted debates. In subsequent years efforts were made to stop this waste of time, and thenceforward the time devoted to petitions had been continually shortened. Attempts were made to put limits to the discussion on petitions. As this had no appreciable result, the radical expedient of entirely forbidding debates upon petitions was adopted in 1839. In 1942 the prohibition as to the treatment of petitions was included in the Rules.<sup>10</sup>

Now petitions are presented with the sole object of redressing some general grievances or focussing the opinion of the public on matters under discussion of the Parliament. It is now recognised as an inherent right of the people in a democracy to present petitions to Parliament with a view to ventilating grievances and offering constructive suggestions on matters of public importance. People have realised that they have a right to petition the House. This has engendered a feeling in them that Parliament is their own and is there to listen to their opinions and grievances and act according to their considered suggestions whenever feasible.

The number of petitions being large, it has not been found possible for the House to consider each petition in detail and direct actions thereon. A Committee on Petitions appointed by the House was the result.

The rules provide that every petition must be couched in the form of a request and must state precisely what the petitioners desire.<sup>11</sup> Petitions must not be printed or litho-

10. Standing Order No. 367 (14th April, 1942) (now S.O. 76) See also Redlich, *op. cit.*, p. 75.

11. May, *op. cit.*, p. 610.

graphed, and must be signed by at least one person on the sheet on which the petition is written. Any forgery or fraud in the preparation of petitions, specially as regards the signatures, is considered a breach of privilege;<sup>12</sup> and a petition so tainted is considered as null and void and is refused a hearing. The language of a petition must be respectful,<sup>13</sup> and must not refer to a debate in Parliament. Any disrespectful expressions referring to the Crown, to Parliament, to religion, to the court of justice, or other constituted authorities, will make a petition unparliamentary and prevent its reception.<sup>14</sup> A memorial properly worded and concluding with a prayer may be presented. A petition should not contain a prayer for sanctioning a sum of money to the petitioner.

A Standing Order of the Commons has prescribed that petitions are to be presented only by a member of the House; personal presentation now is out of order.<sup>15</sup> No member is obliged to present a petition, but once he presents it, it is his responsibility to see that it is in conformity with the rules and orders of the House,<sup>16</sup> and has to affix his name to it.<sup>17</sup>

Petitions may be presented in two ways—informally and formally, informally at any time, and formally only immediately after the close of private business. The member presenting it formally is entitled to state, *inter alia*, the material allegations contained in it and the prayer.<sup>18</sup> No debate is allowed, except in rare cases of petitions complaining of some urgent personal grievance necessitating immediate remedy.

The informal method of presentation of petitions in the House of Commons is the usual one. A bag is provided for

12. May, *op cit*, p 611

13. Campion, *op cit*, p. 144

14. Redlich, *op cit*, p 240

15. The Corporation of London (and also of Dublin in those days) enjoys a special privilege of presenting petitions directly at the bar of the House.

16. Redlich, *op. cit.*, p 240.

17. Campion, *op cit.*, p. 143.

18. S.O. 76 (House of Commons, Public Business).

the purpose of receiving petitions. It hangs behind the Speaker's chair, and at any time during the sitting, a petition may be placed in it.<sup>19</sup> Thence it is taken straight to the Committee on Public Petitions.<sup>20</sup>

## II

In India the form, character, treatment and presentation of the petitions have been almost the same as in the House of Commons in England. Following the British practice a Committee on Petitions was set up in the Central Legislature as early as in 1924. Thus it is interesting to note that the Committee on Petitions of Lok Sabha is the successor to one of the oldest Committees of the Central Legislature. Till 1931, the Committee was called "the Committee on Public Petitions." Since then the present name "Committee on Petitions" is being used. The First Committee on Petitions of the First Lok Sabha was appointed on the 27th May, 1952.

The strength of the Committee was fixed at five in 1924 and remained unchanged until early 1954. In April 1954, however, the membership of the Committee was increased to fifteen, in order to provide adequate representation to all parties and groups in the House. At the commencement of the House or from time to time as the case may be, the Speaker nominates the members of the Committee on Petitions consisting of not less than fifteen members. Ministers are not, as already seen, eligible to be nominated.<sup>21</sup> The Obvious reason for the exclusion of the Ministers from the membership of the Committee is that the Committee is a Committee to enquire and normally acts as a check on the Government on certain matters where the public has some grievances. In such circumstances it would be embarrassing for a member of the Government to be a party to condemn itself in the Committee if matters come to that. It is indeed a

19. Redlich, *op. cit* , p. 241,

20. Redlich, *op. cit* , p. 241

21. Rule 306

healthy practice again to enable the members of the Committee to be free from Government intervention in its work through a minister being present during the deliberations of the Committee. It is, therefore, a sound rule to exclude the ministers from the Committee on Petitions.

Another important thing to note in this connection is that the Speaker nominates the same members as far as possible while reconstituting the Committee.<sup>22</sup>

The term of the members is not confined to one year. The Speaker appoints the Committee "from time to time". Thus an attempt is made at continuity of experienced members on the Committee. The percentage of experienced members in the Committee of 1960 is about 79.2. This clearly indicates that the Committee on petitions has distinguished itself not only by being one of the oldest Committees but also by having a majority of experienced members. The following table taken as a sample case, would illustrate the point :

Committee	Total members	No of members, having 2 years experience	P C of 3 to 2	No of members having more than 3 years experience	P C of 5 to 2	New members
1	2	3	4	5	6	7
Committee on Petitions	15	5	33	7	46.2	20.8%

Thus the total number of experienced people in the Committee is 12 and the percentage comes to 79.2. This table explains how the members have distinguished themselves by their experience.

22. Thus the members who were nominated in 1954 continued to serve on the Committee till 1957 when the new Committee of the second Lok Sabha was constituted. Again the members nominated on the 5th June, 1957 continued to act as members till 29th May, 1959 and 9 out of the 15 members were nominated again on the 30th May, 1960 to the Committee.

## III

Let us now turn to consider the nature of the petitions that the Committee is expected to dispose of. Quite elaborate rules have been made with regard to the form and character of the petitions. The manner of presentation and treatment of the petitions have also been regulated by the Rules, which provide that petitions may be presented or submitted to the House with the consent of the Speaker on<sup>23</sup>

- (i) a Bill which has been published and/or introduced in the House ;
- (ii) any matter connected with the business pending before the House ; and
- (iii) any matter of general public interest.

It has been provided, however, that a matter which falls within the cognizance of a court of law having jurisdiction in any part of India or a court of enquiry or a statutory tribunal or authority or a quasi-judicial body, or a commission, shall not be the subject-matter of a petition to the House<sup>24</sup>. No petition shall contain a matter which should ordinarily be raised in a State legislature.<sup>25</sup> Thus a matter concerning the State administration cannot be raised in a petition to Lok Sabha. The scope of a petition does not also extend to a matter which can be raised on a substantive motion or resolution or for which remedy is available under the law, including rules, regulations, bye-laws made by the Central Government or an authority to whom power to make such rules, regulations, etc. is delegated<sup>26</sup>

Petitions are expected to serve two principal objects :

- (i) First, to state the merits of any public matter to which the petitioner wishes to invite the attention of the House including the ministers ; and (ii) secondly, to show and stress the importance which the public outside are giving to a matter

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23. Rule 160

24. Rule 160 (III) (a)

25. Ibid (b)

26. Rule 160 (c 7 d)

before the House. Petitions relating to the latter category have to be admitted if the matter is of such a nature that it is considered necessary ( by the public ) to bring it again and again to the attention of the members. The function of such petitions is to intensify and focus opinions so "the Government may be moved to quick action".<sup>27</sup>

The petition is required to be addressed "To Lok Sabha", and the Rules prescribe that a particular form has to be used for the petition to be in order,<sup>28</sup> which has been illustrated later on.

The following points emerge from the prescribed form :

1. The petition should be addressed to Lok Sabha without any superscription ;<sup>29</sup> (2) It should contain the name and designation or description of the petitioner(s) ; (3) A concise statement of the case should be included ; (4) The prayer of the petitioners should be clearly shown ; and (5) It should contain the signature of the petitioner and the countersignature of a member of Lok Sabha.

The Rules make it compulsory that the full name and address of every signatory to a petition shall be set out therein and shall be authenticated by his signature, and if illiterate by his thumb impression.<sup>30</sup> Every such petition shall, if presented by a member of Lok Sabha, be countersigned by him.<sup>31</sup> It has been specifically prescribed that letters, affidavits or other documents shall not be attached to any petition. In this connection it may be observed that the petition should be self-explanatory and should not be substantiated by any other evidence. The above Rules indicate that no anonymous petition shall be entertained.

27 Speaker's direction to the Committee on Petitions. The Jrl of Parl. Information, Vol. I No. 1., p. 51.

28. First Schedule ( Form of Petition). See Rule 16,

29. Rule 165. In the case of petition to the House of Commons the superscription is "To the Honourable the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled."

30 Rule 162.

31. Rule 164 (1).

A sample of a petition presented to Lok Sabha is produced below to illustrate the point.<sup>32</sup>

### PETITION NO. 19

To

Lok Sabha, New Delhi.

The humble petition of Sri Paladhar Saikar, and 2,652 other residents of Tripura State,

Sheweth :

1. The petitioners are bonafide registered displaced persons who have migrated from East Pakistan to Tripura.

2. Uptil now loans of various categories have been given them by Relief and Rehabilitation Department, Tripura, for their relief and rehabilitation.

3. At present certificates are being issued in many cases for the realisation of the loans given to the displaced persons and the properties mortgaged are going to be attached and sold for such realisation.

4. The displaced persons have not yet been economically rehabilitated in Tripura. Further, Tripura is going through an acute food crisis due to shortage of food stuff, and this factor has also aggravated the miseries of the displaced persons.

5. Issuing of certificate for the realisation of loans given to the displaced persons under such circumstances is going to displace them again in Tripura, where Government have been spending so much money for their rehabilitation, and accordingly your petitioners

Pray that :

(a) the issuing of certificates in the names of displaced persons for the realisation of loan may be immediately stopped ;

32 Presented to Lok Sabha on 4th December, 1958. See the Sixth Report (Second Lok Sabha) presented on the 8th May, 1959 by the Committee on Petitions, pp 10-11

(b) the certificates that have already been issued might be stayed pending the economic rehabilitation of the displaced persons ; and

(c) in deserving cases the loans might be remitted, and your petitioners as in duty bound will ever pray.

Name of first signatory	Full Address	Signature
Haladhar Sarkar	Damdania Colony, P O. Gandhigram, Tripura State	Sd/- Haldhar Sarkar

Countersigned<sup>33</sup> by Dasaratha Deb, M. P.

Sometimes, petitions which are not in proper form but otherwise admissible, are not rejected outright, but are edited by the Lok Sabha Secretariat so as to bring them in line with the prescribed form.<sup>34</sup>

Next comes the language of the petition. The Rules provide that every petition shall be either in Hindi or in English ; or if presented in any other language, it would be accompanied by a translation either in Hindi or in English and signed by the petitioners.<sup>35</sup> This latter requirement appears to be a little ungenerous, if not unconstitutional, in view of the recognition of fourteen languages as official languages. The Lok Sabha Secretariat could as well translate the petition if presented in any other language. The wording of the Rule may be changed, therefore, as follows : "Every petition shall be in Hindi, English or any other Indian language." That would solve the problem.

The Rules provide that every petition shall be couched in respectful, decorous and temperate language.<sup>36</sup> If the petition is in proper form but couched in intemperate language, it

33. The M P. Countersigned the petition on 25. 11. 58.

34. Journal of Parliamentary Information Vol III No 2, October, 1957, p. 168.

35. Rule 161 (3).

36. Rule 161 (2).

shall be withdrawn by an order of the Speaker, and the petitioner informed accordingly.<sup>37</sup> If a petition contains an intentional and deliberate insult to the House or members thereof, or disrespectful language or offensive imputations upon the character or conduct of Parliament or Courts of Justice or other tribunal or constituted authority, the House may reject the petition outright. Even a petition threatening to resist law is not, as in England<sup>38</sup> admissible. Any petition containing statements affecting the social and legal position of individuals is ordered to be withdrawn. The whole object is to ensure the presentation of petitions in decorous and respectful language.

As regards the presentation of petitions, the rules provide<sup>39</sup> that a petition may be presented by a member of the House to which it is addressed. Of course a member cannot be compelled to present a petition. If the petition is presented by a member it shall be countersigned by him. It is not known if another member of the House can present a petition when the member whose countersignature has been affixed at the end of the petition is absent. If another member puts his signature thereto there will be no difficulty for the petition to be presented. Again if there is a countersignature of a member of the House, petitions could be submitted directly to the Secretary who shall report to the House.

In England, the member ( of the Commons ) presenting a petition affixes his name at the top. But in India, he is required to put his countersignature at the end only. If a member's name had been affixed to a petition without his authority the petition is rejected. It is the ordinary practice that the member's name should be signed by his own hand, and that it is irregular to authorise another person to affix it.

Again if a member of the House desires to submit a petition concerning himself, he should entrust it to some

37. Directions by the Speaker 1957, No 39, page. 24

38. May, *op cit*, p 612

39. Rule 167.

other member.<sup>40</sup> This rule may not apply to cases in which a member presents a petition signed by himself in his representative capacity as Chairman of any incorporated public authority. It is the rule in England also.<sup>41</sup> When a member of the House presents a petition, he confines himself to a simple statement in the prescribed form: "Sir, I beg to present a petition signed by...petitioner(s) regarding..."<sup>42</sup> and then may read out the prayer and make a statement as to the parties from whom it comes, the number of its signatures and its material allegations or suggestions, if any. It must be remembered that before a member presents a petition, he is required by the rules to give advance intimation to the Secretary of his intention to present a petition.<sup>43</sup>

In the case of a petition which is submitted direct and otherwise in order, the Secretary shall report it to the House. The report shall be made in the following form:<sup>44</sup>

"Sir, under Rule ..of the Rules of Procedure and Conduct of Business in Lok Sabha, I have to report that...petitions

## STATEMENT

"Petitions relating to.....( in case of Bills ) the Bill to Provide for..... which was introduced in the House on the.....19....."

Number of signatories.	District or Town.	State.

40. Rule 164 (2) It reads: "A member shall not present a petition from himself".

41. May, op. cit., p. 615.

42. Rule 168.

43. Rule 166.

44. Second schedule of the Rules of Procedure and Conduct of Business in Lok Sabha 1957, p. 169.

as per statement laid on the Table have been received relating to...( in case of Bills ) the Bill to provide for..., which was introduced in the House on the...19 , by Sri.....”.

This form may not be adequate in all cases particularly in cases of petitions dealing with any matter, other than Bills, connected with the business pending before the House and/or any matter of general public interest, as per the rules. The form, in such cases may be as follows :—

“Sir, under Rule.....of the Rules of Procedure and Conduct of Business in Lok Sabha, I have the honour to report that.....petitions as per statement laid on the Table have been received relating to.....

### STATEMENT

( Petitions received direct )

Number of signatories.	Dist. or Town Name of the Constituency.	State	Material allegations.	Prayer or suggestion.	Remarks
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As it is, the form prescribed as shown earlier does not provide for the inclusion of the prayer, material allegations and suggestions, if any, thus keeping the members uninformed on many things. Since no debate is permitted<sup>45</sup> after the presentation of the petition, it is desirable that some details are supplied to the members through the statement laid on the Table. This is being done in case a petition is presented by a member of the House. In the House of Commons also, no debate is allowed, but the petition may be read by the Clerk at the Table, if required.<sup>46</sup> Again, the House of Commons

45. Rule 167.

46. May, op. cit., p. 617.

allows discussion on petitions complaining of a present personal grievance, calling for an immediate remedy since personal grievances, however, urgent they may be, cannot be raised and discussed by an adjournment motion.<sup>47</sup> But the Lok Sabha Rules do not admit such petition at all. It is as it ought to be, because the House otherwise may not find time for adequate discussion. It is better to leave the matter to the Committee on Petitions for perusal and immediate action. Therefore, the Speaker has issued a direction that a petition shall be rejected or returned to the petitioner if it relates to personal or individual grievances.<sup>48</sup>

In case it is considered necessary to ascertain the facts from the ministry concerned in order to determine the admissibility of a petition, a reference may be made to the ministry and facts gathered or the action taken by them ascertained.<sup>49</sup> In any case, there is no debate on the petition presented by a member of the House or reported by the Secretary as the case may be.

#### IV

After the petition is presented it is automatically referred to the Committee on Petitions ;<sup>50</sup> it is an automatic process. The Committee on Petitions is one of the Standing Committees to deal with all the Petitions of all kinds.

Sometimes, however, letters, telegrams, copies of resolutions, etc, which are not strictly admissible under the Rules as petitions are received in the Lok Sabha Secretariat. They edit and submit them to the Committee. These are treated under the direction of the Speaker as "Representations" and considered by the Committee, and steps are taken to get the

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47. Ibid.

48. Laid on the Table on the 28th March, 1957.

49. Speaker's directions. No. 40 Laid on the Table on 28th March, 1957

50. Rule 169.

grievances of the people concerned redressed, by taking up the matter with the ministries.<sup>51</sup> The Committee takes up such petitions which come under its jurisdiction and the rests are either filed, or returned to the petitioner concerned to be forwarded to the appropriate authority.

The main functions of the Committee are :<sup>52</sup>

(a) to examine every petition referred to it by the House, and if the petition complies with the Rules, to direct that it may be circulated among the members of Lok Sabha in extenso or in summary form ;

(b) to report to the House on specific complaints made in the petition, after taking such evidence as it deems fit :

(c) to suggest remedial measures either in a concrete form applicable to the case under review or to prevent such cases in future ; and

(d) to consider representations, letters and telegrams from various individuals, associations etc. which are not covered by the Rules relating to petitions and give directions for their disposal.

Again, under the direction of the Speaker,<sup>53</sup> papers relating to individual grievances which cannot be taken up directly for action by the Committee, are forwarded for necessary action to the authorities concerned if the Committee is convinced of the genuineness of the grievances made therein.

The question of including public grievances within the scope of petitions was considered by the Rules Committee,<sup>54</sup> and it was felt that everyone had a right to call the attention of the House to public grievances and accordingly decided to include "any matter of general public interest", excluding matters which fell within the cognisance of a court of law, quasi-judicial authority, statutory tribunal or authority, or a

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51. Thus the scope of the Committee had been enlarged by the Speaker with effect from 11th April, 1956.

52. Rule 307.

53. First Parliament 1952-1957 ; A souvenir, p. 93.

54. On 22nd December, 1953.

Commission, which should ordinarily be raised in a State Legislature or which could be raised on a substantive motion or resolution, or for which remedy was available under the law. The decisions of the Rules Committee were incorporated in the Rules of Procedure.<sup>55</sup>

These matters of general public interest may be raised by representations, telegrams, letters etc. Resolutions sent by private bodies, associations etc. are treated as representations. In such cases the Committee is to meet<sup>56</sup> as often as necessary to consider such representations, which are not covered by the rules relating to petitions, and give directions for their disposal. But in the case of representations which fall in the categories, the Committee does not consider them, but they are simply filed by the Secretariat :

(i) anonymous letters or letters on which names and/or address of senders are not given or are illegible ; and

(ii) endorsement copies of letters addressed to authorities other than the Speaker or House unless there is a specific request on such a copy praying for redress of the grievance.

When endorsement copies of letters make specific request to redress a specific grievance, the matter falls within the scope of the Committee. It is the duty of the Committee to pursue such matters and help the public to redress grievances of public interest. There are instances where the Committee even goes to the extent of rendering service to the aggrieved persons on letters. Once a Member of the House complained in a letter to the Speaker about his non-admission to the Sitapur Bar Association as he had not agreed to have a separate "Lota and Balti" or to have water and service from the muslim servant of the Association.<sup>57</sup> The Committee recommended that the matter be referred to the Ministry of Home Affairs, who should also advise the Committee in due course of the action taken.<sup>58</sup>

55. Rule 160.

56. Speaker's directions, No. 95, laid on the Table of the House on the 28th March, 1957

57. G. L. Chaudhury, M.P. (Reserved—Sch. Castes).

58. 12th March, 1957.

The Ministry in return asked the U.P. Government to enquire into the matter and, if necessary, take action under the Untouchability (Offences) Act, 1955. This is a clear indication that the Committee is a true Committee to enquire and act upon the grievances of citizens.

In the case of petitions on Bills pending before the House, the Committee meets as soon as possible after it has been presented or reported to the House and submits its report to the House or directs the circulation of the petition to the members, as the case may be, well in advance of the Bill being taken up in the House. The Speaker has issued a direction that when a petition is received on a Bill already under discussion in the House, the Committee should meet immediately and submit its report or direct the circulation of the petition among the members, well in advance of the Bill being taken up in the House.<sup>59</sup>

## V

The procedure followed by the Committee is simple. Whenever it is necessary to call for persons to give evidence it has the power to summon them. From the minutes and reports of the Committee it is seen that this power is sparingly used. Again it hardly appoints sub-Committees for any matter because it is perhaps not necessary. In the case of petitions dealing with Bills under discussion, it has very little to do. Normally the petition is circulated in extenso or in summary form under its orders. It acts just as a screening Committee in case of petitions on Bills by eliminating those which are not in proper form or in temperate language. Similar procedure is followed in the case of petitions pertaining to any Finance Bill. It is important to note that the Committee does not reject a petition on a Bill that has been enacted into law. The Committee had decided in this connection that "a petition on a Bill, even after the latter has been passed or enacted into law, shall

be considered by the Committee and necessary recommendations are made thereto".<sup>60</sup> In these cases the Committee goes into the merits of the contentions of the petitioners and recommends its considered opinion, provided there are some specific suggestions to improve the Bill. The Committee's recommendations though, post-mortem in nature are helpful to the Government when in future they think of amending the Act.

In the case of petitions on public grievances the Committee goes into the merits of the cases and calls for comments of the Ministry concerned and then makes its recommendations. The petitions offering suggestions receive the same treatment.

Whenever the Committee considers any petition or any issue and takes a decision thereon, the practice is "that a copy of the relevant report of the Committee should be sent to the petitioner concerned for his information, and in case of more than one signatory to the petition, to the first signatory, and also to the member of Lok Sabha concerned if the petition has been presented by the latter".<sup>61</sup> Thus the petitioner is kept informed of the actions taken by the Committee. There are instances where the petitioners have again submitted petitions giving more details, evidence etc., after getting the copy of the relevant report of the Committee. This facilitates the work of the Committee to pursue a case further if deemed necessary.

## VI

From a study of the Rules and Directions, and the nature of the petitions so far presented, petitions may be classified as follows :

- (a) Petitions on Bills or legislative matters ;
- (b) Petitions on public grievances or administrative matters ;
- (c) Petitions bearing opinions and suggestions ;
- (d) Petitions on financial issues ;

60. Journal of Parliamentary Information, Vol. No. 1, p. 51.

61. Journal of Parliamentary Information, Vol. I, No. 1, p. 51.

(e) Petitions on individual grievances. In the case of petitions on Bills under discussion, the petitioners intend the House to know the public opinion or more correctly, their own opinion on the matter. A Large number of petitions are of this nature. The Committee considers these petitions and either circulates them in extenso or in a summary form to the members of the House.

The real purpose of Petitions is served by the second category. In fact, as earlier said, it is this—the ventilation of public grievances on administrative lapses that has led to the setting up of this venerable institutions of “Petitions”. The public, whenever they are denied justice by the executive authorities, have a right to bring it to the notice of their representatives. That is the implication. Such cases are rather large in number already and when this institution becomes familiar in India, many more may be expected.

The third kind of petitions are rather less numerous. Only people with long experience in public service and outstanding ability feel like expressing their opinions on a matter of public importance which is under consideration of the House.

Sometimes organisations and associations pray for some concessions of taxation. This type of petitions is submitted when any Financial Bill is under consideration. Sometimes such petitions do produce good result.

The last type of petitions are not strictly petitions according to Rules of Procedure. They are regarded as representations. They may be called quasi-petitions. The Committee does not ignore them. Suitable directions are issued by the Committee to redress the grievance as far as possible. Large number of representations, telegrams and letters are included in this category. Though individual in character, the grievances when become common might become public. So far as the government is concerned, individual grievances are public grievances because similar grievances may come up from the bulk of the society. It is, therefore, proper to amend the Rules to include individual grievances within the scope of petitions. This would contribute much towards the strengthening of our democracy and go a long way in checking the administrative excesses. If

officials are aware that their actions are likely to be reviewed by the representatives of the people, at least official callousness would much be reduced. Capricious actions of the senior officials on whom the ministers depend very much for smooth sailing during their short span of life, would be minimised if they know that even in case of personal grievances, a Committee of the Parliament may be invoked to pass judgement.

Let us now take up some examples of each type of petitions and discuss how such petitions are disposed of.

First. Petitions on Bills. In a petition, 45,041 inhabitants of the State of Bilaspur<sup>62</sup> showed that the Himachal Pradesh and Bilaspur (New State) Bill No. VII of 1954 as introduced in the House of the people, was wholly against the interests and welfare of the people of Bilaspur. They prayed that "the people of Bilaspur be granted the right to choose their future political status either as a separate Unit of the Union as hereto before or for a Union with either of the two States of the Punjab or Himachal Pradesh, and their preference be recorded either through the medium of a referendum conducted under the aegis of the Central Government or through a commission of enquiry duly appointed by the Government of India in this behalf." The Committee considered the petition and discussed in details the constitutional and other points involved in the petition, and recommended that "it would be desirable to provide for ascertainment of views of the people of Part C States in Article 3 of the Constitution of India somewhat on the lines of the provisions now contained in Article 239 (i) (b)".<sup>63</sup> The recommendation, it may be seen, partly accepted the contention of the petitioners, but held that no action was necessary on the petition.

In another case, the Secretary-General of the Indian Federation of Working Journalists and some members of the

62. Bilaspur was once a Native State in the Punjab. It was proposed to merge the State with the proposed Himachal Pradesh. A Bill, "Himachal Pradesh and Bilaspur (New State) Bill", No. VII of 1954 was then pending in the Lok Sabha.

63. On 9th April, 1955

Press Gallery of Lok Sabha in a petition prayed thus : "whereas the Bill<sup>64</sup> to give protection to publication of reports of proceedings of Parliament, State Legislatures and their Committees now pending before Lok Sabha seeks to enable the Press to give full and adequate publicity to proceedings in either House of Parliament and in the State Legislatures ; whereas such publicity is in the best public interest ; whereas the advantage arising out of such publicity to the community at large far outweighs any private injury resulting from the publication ; whereas it is essential to give such protection to the Press to enable it to discharge its duty faithfully", the Bill be proceeded with and passed into law. As the Bill was being then discussed in Lok Sabha, the Committee directed that the petition might be circulated to the members in extenso. It was circulated.<sup>65</sup>

Let us now turn to the second type, petitions on public grievances. In one case a member of the Rehabilitation Committee, Agra, in his petition represented certain difficulties experienced by non-claimants with regard to the "allotment of evacuee property, rehabilitation grants and certain procedural difficulties" in the filing of claims. The Committee recommended that cases of extreme hardship arising from the failure of claimants to file claims within the due time should be treated with some consideration. The concerned Ministry then considered those claims.

In another case, the signatories represented that there had been inordinate delay in the payment of interim compensation to displaced persons.<sup>66</sup> The Committee asked the Ministry of Rehabilitation to explain. In their explanation the Ministry estimated that it would take about three years to finalise the rules which were at that time under the consideration of

64. Proceedings of Legislatures (Protection of Publication) Bill, 1956.

65. On 4th April, 1956. The petition was presented by Sri T. N. Singh, M. P. on the 2nd April, 1956

66. J. M. Khilnai, Bhavnagar and General Secretary Urban Area Pursharthi Committee, Jullundur City in his petition prayed for early compensation.

Government. The Committee was not satisfied with this and recommended that the payment of compensation to displaced persons with verified claims should be finalised by the end of the next year at best, and that was done.

Let us take up the third type of petitions, petitions giving suggestions or expressing opinions. In a petition a citizen suggested for the grant of rail concessions at single fare for double journey to children and their escorts appearing for competitive examinations for award of merit scholarships in public schools and to candidates appearing at competitive examinations held by the Union Public Service Commission.<sup>67</sup> The Committee after considering the comments of the Ministry of Railways on the petition recommended that "the rail concessions suggested may be granted to children appearing at examinations for award of merit scholarships in Public Schools, whose parents have an income not exceeding Rs. 100/- per month". The Committee, however, did not favour the grant of concessions to candidates appearing at examinations held by the UPSC. The Ministry of Railways readily agreed and issued a circular to that effect.<sup>68</sup>

In another case a citizen submitted his<sup>69</sup> opinion on the Code of Criminal Procedure ( Amendment ) Bill, 1954 which was then under the consideration of Lok Sabha, that "the protection proposed in Section 25 of the above Bill might, if at all desired, be given to the President, Vice-President, Governor or Rajpramukh of a State and should not be extended to ministers who are objects of daily controversy particularly during the period when the Parliament is in session and to the public servants who will become a privileged class to misuse the protection inviting hostile feeling of the people and also to some extent enlarge the circle of corruption which is already a headache to the Central and State Governments". He also prayed for specific provisions in the Bill

67. Petition No. 2 presented by Dr. M. V. Gangadhara Siva, M P., on the 31st May, 1957.

68. Circular letter No 8227-T.C. dated the 14th March, 1958.

69. Sri Parameshwar Dass Jain, Delhi.

laying down the procedure for prosecution for defamation against such high dignitaries, giving adequate facilities for the accused, empowering the advocate of the accused to enter any part of police station at any time with a view to detecting the third degree methods used by the police and specific provisions should be made for conducting the trial from day to day for an early disposal of the cases, without witnesses being tampered with. The Committee recommended that the petition be circulated among the members of the House in summary form.<sup>70</sup>

In some cases the Committee did not hesitate to agree with the suggestions of the petitioner. A citizen once suggested some improvement for running of trains, electrification of stations, improvement of railway stalls and reservation of berths, seats, compartments in trains etc.<sup>71</sup> The Committee called for the comments of the Ministry of Railways thereon and after perusing them recommended<sup>72</sup> that some of the suggestions made by the petitioner might be implemented and the Railway Board implemented them.

The next type of petitions deal with financial matters. One was a petition from the members of the Delhi Foot-Wear Manufacturers' Association regarding exemption from excise Duty on manufacture of foot-wear and the other was a petition from a proprietor, Pioneer Soap Works, Gurgaon, Punjab regarding exemption from excise duty on manufacture of soap. The Committee recommended that both the petitions should be circulated in extenso with the Finance Bill of 1954.

Let us now turn to individual grievances through 'Representations' addressed to the House or Speaker or to Chairman of the Committee.<sup>73</sup>

A person sent a representation to Lok Sabha alleging that there had been inordinate delay in payment of her share of

70 On 18th November, 1954

71. Presented by Sri B S Murthy, M P, on 17th August, 1956,

72. On 8th September, 1956,

73 Appendix III to Tenth Report (Second Lok Sabha) presented on the 9th September, 1960, pp. 7-10.

decretal amount for mortgage right. The Committee intervened in the matter and asked the Ministry of Rehabilitation to expedite payment and the Ministry responded readily and paid her the decretal compensation.

Another case may be taken to illustrate the effectiveness of the Committee on Petitions. One business man in a representation complained that there had been delay in settlement of claims for compensation on loss of one wagon of 600 tons of kerosene oil ex-Sewri to Ghaziabad and 2 bundles of lady cradles ex-Ghaziabad to Raipur. On the intervention of the Committee the Ministry of Railways settled the claims. It repudiated liability for loss in former claim and had arranged for payment of Rs. 375.50 np. on the latter claim. These cases would amply demonstrate how far the Committee has been able to get the things done.

## VII

An evaluation of the activities of the Committee would make clear the extent the Committee has been useful. Of the 2019 petitions and representations received during the life of the first Lok Sabha, 351 petitions were on Bills pending before the House, 6 were on the Report of the States Reorganisation Commission and the rest on other matters. By September, 1960, the second Lok Sabha received 1382 petitions, representations etc. from the public. These figures clearly show that the public have become increasingly aware of their rights under the new democratic set-up. A little publicity of the work of the Committee would create, no doubt, more enthusiasm among the people. \*

So far as the Government is concerned, the Committee receives as much attention from them as other Committees. Its recommendations are considered by the Government and implemented in many cases as indicated by the following<sup>74</sup> table :

74. Prepared from the Reports of the Committee, published by the Lok Sabha Secretariat, New Delhi.

Sl. No.	Items	First Lok Sabha	Second Lok Sabha	Remarks
1.	Number of recommendations on petitions.	54	30	i) The figures relating to the second Lok Sabha cover the period till Sept, 1960,
2.	No. of recommendations which have been implemented.	52	29	ii) This table does not include the numerous letters and representations which are not strictly called petitions.
3.	No. of cases where the reply is awaited.	Nil.	1	
4.	No of cases where the reply of the Govt is accepted by the Committee	2	Nil.	

In case its recommendations are not quickly attended to before it takes up any new work, it requires the Ministry concerned to state how far its earlier recommendations have been implemented. Thus the Committee pursues its recommendations till they are finally disposed of.

One shortcoming found with the Committee's work is that it does not publish its recommendations on the representations etc. from the public. That would publicise the work of the Committee more than what is otherwise possible.

Finally, the Committee is gradually rising in its importance. It may be remembered that in England the institution of petitions has but "little life" at present. But the Indian conditions are such that the reverse is true. It is because in England there are other ways of getting public grievances redressed, through the Press, individual M.Ps., strong Opposition etc. and by the responsive administration they have. Hardly anybody now brings a petition to redress the grievances. Besides, the importance of the institution of petitions has declined in England because of the emergence of the technique

of Bills. But in India it has been from its very inception meant to be used for the ventilation of public grievances and that too against the executive action. That tendency still continues to operate. Moreover, in the absence of a strong and healthy opposition in India, public grievances cannot be properly ventilated and redressed. The executive officials are yet to be responsive. Their indifference, apathy and unresponsiveness to the public demands have perhaps resulted in the institution of petition gathering strength in the recent past. If Parliamentary control over the executive, in the absence of a strong Opposition, is to be made effective the institution of petition and the committee thereon should be more effective and strong. Relaxation of the rules regarding admissibility of the petitions particularly with reference to personal grievances and more of publicity would make the Committee more effective. If it works efficiently it could act as another factor to check bureaucratic indifferences or excesses. Since people look to Parliament to redress their genuine grievances when they fail to get relief from the executive authority, the Committee on petitions might serve the House better if it becomes bold and effective without challenging Cabinet responsibility.

## CHAPTER IV

### COMMITTEE OF PRIVILEGES

#### I

Parliament enjoys certain privileges in order to maintain its freedom, its security and its dignity. These privileges were once necessary in the United Kingdom to provide protection to the House of Commons against the attacks of the King. But even today at the beginning of a new Parliament, the Speaker, when he goes up to the House of Lords to receive the royal approbation of his election, lays claim by humble petition to "the ancient and undoubted rights and privileges of the Commons"<sup>1</sup> referring in particular to four privileges—freedom from arrest, liberty of speech, access to the royal person, and a favourable construction of all their proceedings. These privileges were regularly claimed from 1541.<sup>2</sup> The House, however, does not base its claims to its privileges only upon the confirmation of its petition. Sir Erskine May points out that some have been confirmed by statute, and therefore are beyond the control of the Crown, while others, having been limited or even abolished by statute, cannot be granted or allowed by the Crown. The House has always claimed that its privileges are part of its own records and precedents, and only to be interpreted by itself. In this claim the courts may be said to have acquiesced except in so far as the legal rights of persons outside Parliament have been infringed, when conflicts of jurisdiction have arisen.<sup>3</sup>

1. Sir Gilbert Campion, *An Introduction to the Procedure of the House of Commons*, p. 63.

2. Maitland, *Constitutional History of England*, p. 242.

3. Campion, *op. cit.*, p. 63.

## II

All the privileges enjoyed in England are not incorporated in our Constitution. Some have been provided<sup>4</sup> and for the rest, the Constitution has provided that till a law is made by Parliament "the powers, privileges and immunities of each House of Parliament, shall be those of the House of Commons in the United Kingdom". Thus there are two categories of privileges in India : those that are specific and enumerated and those that are generally recognised but unenumerated.<sup>5</sup> Under the first category come the following : (a) freedom of speech in each House of Parliament, (b) immunity from proceedings in any court in respect of anything said or any vote given by a member in Parliament or any Committee thereof, and (c) immunity from liability in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.

In the second category come "those of the House of Commons of the Parliament of the United Kingdom, and of its members and Committees, at the commencement of this Constitution" until, of course, "defined by (our) Parliament by law".<sup>6</sup> The unenumerated powers or privileges are indefinite and hypothetical. It implies that further developments in the privileges and immunities of the House of Commons after the 26th January, 1950 are not included in the list of unenumerated privileges of the Indian Parliament. No legislation in this respect has so far been undertaken.<sup>7</sup>

4. Art. 105 (1 and 2)

5. Ibid, Clause 3.

6. Art. 105 (3).

7. A question arises here : Can the Parliament of India pass a law enumerating its own rights under Articles 105(3) of the Constitution which may contravene Part III of the Constitution ? The Supreme Court, in the famous Search Light case, held that "it is true that a law made by Parliament in pursuance of the earlier part of Art. 105 (3) or by the State legislature in pursuance of the earlier part of Art. 194(3) will not be a law made in exercise of constituent power like the law which was considered in *Sankari Prasad Singh Deo V. Union of India* (Law made by the Parliament to amend

### III

However, the whole of maintenance of the dignity of the House depends upon the ability with which the Parliament takes up the issues and tries to vindicate and meet its own needs vis-a-vis the dignity and fundamental liberties of the public and the press. Both in England and India, there is a Committee of Privileges to act as the agency to look into the matters arising out of the privilege issues.

Any breach of privileges of the House is referred by the House to its Committee of Privileges for a full, detailed and judicious consideration of all the issues involved so as to determine whether there has been any breach in the case referred to it and to report to the House with its recommendations for action. Therefore, the Committee of Privileges has assumed much importance in ensuring and maintaining the privileges and dignity of the House.

The Committee of Privileges<sup>8</sup> of the First Lok Sabha was appointed by the Speaker on 26th May, 1952 while appointing the different Standing Committees.<sup>9</sup> Initially only ten members were appointed to the Committee, but the strength was increased to 15 when the Committee was reconstituted in 1955 with a view to giving adequate representation to Government Party as well as to other groups. The Lok Sabha Rules provide that at the commencement of the House or from time to time,

Art. 31 under Art. 368) but will be one made in exercise of its ordinary legislative powers under Art. 246 read with the entires (71 List I, and 39 of List II) ...and that consequently if such a law takes away or abridges any of the Fundamental Rights, it will contravene the peremptory provisions of Art. 13(2) and will be void to the extent of such contravention and it may well be that that is precisely the reason why our Parliament and the State Legislatures have not made any law defining the powers, privileges and immunities"

(See for details the Supreme Court Judgement of 12th December, 1958 and Privileges Digest Vol. III. No. 1, pp. 35-67)

8. See for details (i) Morris-Jones, *Parliament in India* (ii) A. R. Mukherjee, *Parliamentary Procedure in India* and (iii) A. B. Lal (ed), *Indian Parliament*.

9. *First Parliament : A Souvenir*, p. 93.

as occasions arise, the Speaker shall nominate the Committee consisting of not more than 15 members.<sup>10</sup> Normally the Speaker nominates members in such a way that the different shades of opinion in the House as far as practicable are represented on the Committee. It may be observed here that the nominating power of the Speaker has ensured the continuity of most of the members in the Committee as seen from the following :

## COMMITTEE OF PRIVILEGES (1954-1960)

Sl. No.	1954	1955	1956	1957	1958	1959	1960
1. No. of members.	10	15	15	15	15	15	15
2. No. of new members	1	13	0	11	0	3	4
3. Percentage of new members.	10	85.8	0	72.6	0	19.8	26.4
4. No. of members having one year of experience.	0	2	15	4	15	12	2
5. Percentage of 4 to 1.	—	14.2	100	26.4	100	79.2	13.2
6. No. of members having experience of more than two years	9	2	3	4	4	12	0
7. Percentage of 6 to 1.	90	14.2	19.8	26.4	26.4	79.2	0

A point which deserves attention here is that there is restriction on the ministers to act as members of the Committee. In the case of certain Committees, as those on Subordinate Legislation, on Estimates, Petitions and Government Assurances, the rule is that "a minister shall not be nominated as members of the Committee and that if a member, after his nomination to the Committee, is appointed a minister, he shall cease to be a member of the Committee from the date of such appoint-

10. Rule, 313.

ment.”<sup>11</sup> But the names of ministers are often found included in the Committee. Such a practice is not a healthy one for one reason. Normally privilege questions are raised by the members of the opposition and sometimes they might be genuine ones against the excesses of the executive and against important ministers.<sup>12</sup> If the Committee of Privileges is to consider such matters with a judicial mind, the very presence of the Ministers in the Committee might vitiate its impartiality. It is against all canons of justice to make the accused the judges in their case. It is better that this practice of nominating ministers to this Committee is discontinued.

The Chairman of the Committee is appointed by the Speaker. But if the Deputy Speaker is a member of the Committee he is automatically made the Chairman.<sup>13</sup> There is no uniform practice in Lok Sabha. During the first 4 years of the First Lok Sabha, a prominent member of the Council of Ministers was appointed as the Chairman of the Committee. Since 1955 the Deputy Speaker is appointed as the Chairman of the Committee.<sup>14</sup>

11 Rule 306 309, 311 315 324

12 V G Deshpande case, Dasiratha Deb case etc. are on the excesses of the executive. Again privilege question was raised against (1) the Prime Minister for his statement outside the House (4.12.59), (2) the Defence Minister (17.12.59), (3) Finance Minister (5.9.55) and often privilege questions have been raised against budget leakages (0.3.59).

13 Rule 258 (1)

14 The following Table would illustrate the point

Sl. No.	Year	Name of the Chairman	Designation, if any
1	1952	Dr. K. N. Katju	Home Minister
2	1953	—do—	—do—
3	1954	—do—	—do—
4	1955	Sri M. Anantha Sayan Ayyangar	Deputy Speaker
5	1956	Sardar Hukum Singh	—do—
6	1957	—do—	—do—
7	1958	—do—	—do—
8	1959	—do—	—do—
9	1960	do—	—do—

Earlier Dr. B. R. Ambedkar, the then Law Minister was acting as Chairman (1950-52).

The Committee may be said to have two main functions. First, it is expected to examine "every question referred to it" and determine with reference to the facts of each case whether a breach of privilege is involved and, if so, the nature of the breach and the circumstances leading to it, and make such recommendations as it may deem fit.<sup>15</sup> Secondly, it is also to report on the procedure to be followed by the House in giving effect to the recommendations by the Committee. An important point to note is that thus the Committee cannot suo moto take cognizance of any breach of privilege. As the Rules stand, either the House may consider a question of privilege and refer it to the Committee or to a separate Select Committee to examine and report on any specific question of privilege, or "the Speaker may refer any question of privileges to the Committee of Privileges for examination, investigation or report."<sup>16</sup>

It may be discussed here if it is desirable to refer any question of privilege to a separate Committee. There would be no objection against such a reference if there is no Committee of Privileges in existence at the time when such a question is raised. But it is not in good taste to refer any privilege issue to any ad hoc Committee "by-passing the Committee of Privileges". There were occasions when the Committee was by-passed and members (of the Provisional Parliament) asked the Speaker to tell the House why the Committee was by-passed and why it was not asked to enquire into the matter.<sup>17</sup> Thus a case arose when the Prime Minister moved a motion to refer the Mudgal case to an ad hoc Committee.<sup>18</sup> The Speaker

15. Rule 314 (1).

16. Rule 222. The procedure is that any member might raise a question of privilege with the consent of the Speaker. If not less than 25 members rise in favour of leave being granted to raise the question of privilege, the Speaker shall declare that the leave is granted.

17. Shri H. V. Kamath raised this question on a point of procedure in what is known as the Mudgal case of 1951.

18. The Committee was to investigate the conduct and activities of Shri H. C. Mudgal, Member of Parliament, in connection with some of his dealings with the Bombay Bullion Association, which included canvassing

thereupon ruled that though there was a Committee of Privileges "constituted under the Rules", "it is within the powers of the House to constitute other Special Committees if there are any special circumstances and enquiries to be made".<sup>19</sup> When a member insisted on asking whether "it was not fair and proper that the Committee of Privileges...should go into this matter at some stage or other before the report finally comes to Parliament", the Speaker observed that "it is a question of some doubt as to whether the matter involves any definite breach of privilege or not. The real question of the breach of privileges of the House, if any, will arise after the definite findings of the Committee are known therefore, it is better to keep the Committee of Privileges apart. If the allegations are found true then they will be referred to the Privileges Committee later on."

But actually the Committee of Privileges was never brought into the picture at all because as soon as this ad hoc Committee reported finding him quietly, the leader of the House moved a resolution to oust him. This latter procedure may be correct but the Privileges Committee should not have been originally by-passed at all, and it is not clear from the proceedings of the House and the Speakers' observations why this Committee of Privileges was found unsuitable to go into the matter.

In the exercise of its functions the Committee has the power to consider (a) the facts of each case, (b) whether a breach of privileges is at all involved in the case, (c) if so, the nature of the breach, (d) the circumstances leading to such breach, and (e) the punishments to be given or actions to be taken on the issue. Before the Committee is seized of the matter the question must have passed through two earlier stages, namely, (a) the Speaker's consent and (b) the motion of the House or the order of the Speaker to refer the question to the Committee, both implying that a *prima facie* case is

support and making propaganda in Parliament on problems like option business, Stamp Duty etc. and receipt of financial or business advantages from the Bombay Bullion Association.

19. Provisional Parliament Debates, June 6, 1951.

established. No question could be raised in the House unless the Speaker gives his consent.<sup>20</sup> Then the House discusses the issue to refer the matter to the Committee of Privileges. Thus the issues are screened before the Committee is called upon to examine and report, making the Committee's work much lightened.

#### IV

The Committee follows a simple procedure in conducting its examination of the privilege issue. Since it has to go into all the details and merits of the case, the Committee calls for all records, documents and papers from the persons concerned including the Government. It also takes evidence from the persons who might be directly or indirectly involved with the issue or affected by it. It particularly calls on the "accused" to furnish an explanation, thus giving him an opportunity, as in judicial procedure, to defend himself and to be represented by counsel.<sup>21</sup> Mudgal was allowed to represent his case through Counsel.

A question arises if the procedure of Law Courts should be followed by the Committee of Privileges. When the Committee is called upon to enquire and report and declare a person to have committed a breach of privilege, it acts as a judicial body. Therefore, it may be in conformity with the principles of natural justice that he should be heard in person or through his counsel and judicial procedure should be followed in the conduct of the case. But the Speaker is found to have a different view. He said "we are not constituting it (the Committee) as a regular court. In the exercise of sovereign powers of Parliament, we constitute it as a Court of Honour and not necessarily as a Court of Law, but it will have, for all practical purposes, all the powers".<sup>22</sup> Thus the Committee as a Court of Honour is free to adopt any procedure. But it would be

20. Rule 222 and 225.

21. Under Rule 271.

22. Provisional Parliament Debates, 8.6.1961.

better if the Committee follows the judicial procedure in this "judicial" work.

After consideration, the Committee prepares its report. The report ordinarily contains the following information : (a) the questions involved ; (b) facts of the case ; (c) evidence given ; and (d) findings of the Committee. Besides, the different documents which are considered by the Committee are included as an appendix to the report. The report also contains the proceedings of the different sittings of the Committee. The minutes of dissent of the members, if any, are also appended to the report.<sup>23</sup>

When the report is presented, by the Chairman, the Speaker permits a debate on the motion that the report be taken into consideration. The debate is limited to half an hour only and the Rules provide that such a debate "shall not refer to the details of the report further than is necessary to make a case for the consideration of the report by the House".<sup>24</sup> Thus the debate is only confined to the brief outline of facts and finding of the Committee. After the motion to consider the report is agreed to, the Chairman or any member of the Committee or any other member of the House, moves that the House agrees, or disagrees or agrees with amendment, with the recommendations contained in the report. So far, all the reports and the recommendations contained therein have been agreed to without any amendment. Since its Chairman is the Deputy Speaker and majority of the members of the Committee belong to the party in power, their recommendations are endorsed by the House easily. On the 19th August, 1961, the House showed its enthusiasm to accept the report of the Committee of Privileges holding the editor of "Blitz" and the weekly's Delhi correspondent guilty of a "gross breach of privilege and contempt of the House". This indicates how much confidence the House has reposed in the Committee.

23. This is an exception to the Speaker's Direction No. 68(3) mentioned in Chapter II.

24. Rule 315.

## V

During 1952-57 (First Lok Sabha) the Committees held 12 sittings and presented 4 reports to the House.<sup>25</sup> In each of these cases it was held that no breach of privilege had been committed. There were also 3 sittings jointly with the Committee of Privileges of the Rajya Sabha for suggesting a procedure which might be adopted for the disposal of a question of privilege raised in one House in which a member of the other House was involved. A joint report was presented to the Houses on the 23rd August, 1954 and was subsequently adopted.<sup>26</sup>

During the second Lok Sabha till September, 1961 only 9 questions of privilege have been referred to the Committee.<sup>27</sup> In one case the Committee held that a breach of privilege had been committed but having regard to the unqualified and sincerest apology of the contemner, the Committee recommended that no further action be taken in this case and in the Blitz case as seen earlier the Committee held the Editor and his Delhi correspondent guilty and recommended for a reprimand. The impact of work on the Committee may be seen from the following :

Sessions	Number of sittings held	No. of reports	Action taken by the House
Feb. 10, May 9, 1958	5	2	adopted
Aug. 11, Sept. 27, 1958	3	2	—do—
Nov. 17, Dec. 20, 1958	6	2	—do—
Feb. 9, May 9, 1959	5	2	—do—
Aug. 3, Sept. 12, 1959	2	1	—do—

The above table indicates the volume of work of the Committee during five continuous sessions of Lok Sabha. There

25. First Parliament : A Souvenir, p 93,

26. Ibid. See for details the report of the Joint Committee, 23, August, 1954. In the N. C. Chatterjee case, the Joint Committee of Privileges of both Houses also met.

27. It includes the recent Blitz case, 1961.

were in fact many more privilege issues raised in the House, but they were disposed of by the House itself. However, the work of the Committee appears to be not very voluminous, as it ought to be as breaches of privileges cannot be an every day affair though qualitatively it must be considered to be very weighty.

It may be observed that in spite of it, the attendance of members is not generally satisfactory. The alleged apathy and indifference shown by the absentee members towards the most valuable privilege of Parliament deserves one's attention. It may be seen from the following.<sup>28</sup>

Date of sitting	Members present	Date of sitting	Members present
31.3.1958	6	11.12.1958	7
5.4.1958	7	15.12.1958	6
16.4.1958	5	17.12.1958	12
23.4.1958	9	11.2.1959	9
4.9.1958	6	18.2.1959	10
11.9.1958	5	27.2.1959	12
25.9.1958	5	4.3.59	5
19.11.1958	5	5.3.1959	6
25.11.1958	7	25.8.1959	5
4.12.1958	5	31.8.1959	7

The highest attendance in 21 sittings of the Committee was 12 and that too twice only. The average is only 7. This Table indicates that excepting on one occasion, the attendance was less than 50%. There was never an occasion when all the 15 members were present.

The interest of each member in the Committee in vindicating the rights of the House can be easily assessed by the following :<sup>29</sup>

28. Source : Parliamentary Committee CC No. Vol. III to Vol. VII.

29. Source ; Parliamentary Committee, A summary of work ( During the period 10th February 1958 to 12th September 1959. )

Sl. No.	Name of the Member	Sittings attended		Remarks
		1958	1959	
1.	Sardar Hukum Singh	14	7	1. It covers 5 consecutive sessions of the Parliament during 1958 and 1959 ending on 12th Sept. 1959.
2.	B. C. Ghosh	7	5	
3.	Hoover Hynniewta	2	2	
4.	Nemichandra Kashiwal	6	5	
5.	H. N. Mukherjee	11	5	
6.	S. R. Rane	14	4	
7.	A. K. Sen (M)	5	3	
8.	J. V. Sheah	3	3	
9.	Saranghar Singha	2	0	
10.	Satyanarayan Singha (M)	5	6	
11.	Dr. P. Subbarayan(M)	13	6	2. (M) indicates Ministers.  3. Total sittings held in 1958 - 14 ; in 1959 - 7.
12.	Sradhakar Supkar	8	4	
13.	Pt. Munishawar Upadhyaya	1	1	
14.	N. M. Wadia	8	4	
15.	I. K. Yajnik	6	2	

This table shows that all Minister—members are not very particular about attending the meetings of the Privileges Committee. Out of 14 sittings Sri A. K. Sen, the Law Minister, attended only 5 in 1958 and Sri Satyanarayan Singha also attended only 5. The only member who has taken keen interest in the year 1958 appears to be Sri S. R. Rane.

## VI

Besides the alleged apathy and indifference of the members of the Committee in the sacred task entrusted to them, the rising tempo of the press to uphold their own liberty has created an opinion in the country that there should be an early codification of the Parliamentary Privileges, and that they and the Fundamental Rights guaranteed in the Constitution should

be reconciled by suitable law passed by the Parliament and the Legislatures.<sup>30</sup>

The first Speaker of Lok Sabha did not favour the idea of codification ; he felt that Parliament's privileges could be better maintained under the present system than under codification. He said, "any codification is more likely to harm the prestige and sovereignty of the legislature. It may be argued that the Press is left in the dark as to what the privileges are. The simple reply to this is that those privileges which are extended by the Constitution to the Legislature, its members etc. are equated with the privileges of the House of Commons in England. It has to be noted here that the House of Commons does not allow the creation of any new privileges. No codification therefore appears to be necessary".<sup>31</sup>

The idea to keep every one in the dark may not be tenable when the Constitution defines the jurisdiction of the Legislature at one place and the liberties of the citizens at another. The courts are still under the impression that they are as helpless as the courts in England in respect of the privileges of Parliament.

In England, the Parliament is sovereign and the courts are not vested with the power of judicial review. In India, the courts have the duty to enforce the Fundamental Rights.

It is again imperative to lay down certain rules as to the procedure to be followed for the punishment for the contempt of Parliament. The power to punish the contemnors should be vested in a court of law the case being initiated by the Committee of Privileges. The House shall not, as a result, lose its time to discuss and decide on the privileges issues. It may be argued that if the power to punish the offenders is taken

30. Press Commission Report. This need has become all the more necessary in view of the 'Blitz' case (1961) and the Judgement of Supreme Court in the 'Search Light' case (12.12.58)

31. Speech at Rajkot while addressing the conference of Presiding Officers of Legislative Bodies in India on 23rd January 1955. Very recently the Law Minister of the Government of India also opined similarly while addressing a seminar organised by the News papers Editor's Conference in 1961.

away, the dignity of the House shall be affected. The simple answer to it is that the lower courts in India are still maintaining their dignity even though they have no right to punish for contempt of the courts. The High Court punishes the offender. The lower courts only take cognizance of it. The same procedure may be followed here by giving power of cognizance to the Privilege Committee and to commit it to the Supreme Court of India. However, under the present circumstances the responsibility of reconciling the privileges of the House and the Fundamental Rights of the citizens rests on the Committee of Privileges. They would do a great service to the Indian body politics if they act as the guardians of the citizens in protecting them against the abuse of privileges of the House as much as the custodians of the dignity of the House.

## CHAPTER V

### COMMITTEE ON GOVERNMENT ASSURANCES

The Committee on Government Assurances is India's "innovation"<sup>1</sup>.

During the question hour and in answer to many points raised during discussion on Bills, it is a common practice for a minister to say "I will consider, I will look into the matter, I will gather information, We are considering", etc., giving evasive replies by throwing some assurances, promises, undertakings etc., to calm down a momentary passion or to escape from an unexpected predicament. These assurances are like safety-valves and fugitive in form and nature. Either the matter is forgotten or the concerned members interested in the matter have to pursue the 'assurance' further, but there are innumerable difficulties. First, he has to give notice of a fresh question or raise it during the discussion on the Budget ; both naturally involve some delay and the process is endless and irksome. Secondly, these assurances are many and there is no complete record to enable any persistent member to follow up. Again it is a common complaint in India, when talking about administration and red-tape that, whenever any grievance is brought to the notice of the department, it seems to be of nobody's concern to specifically attend to the matter, and everybody in the line feels satisfied and considers that he has discharged his duty by merely forwarding the paper to some subordinate till it reaches the person at the lowest rung and then nobody knows as to what happened to the complaint<sup>2</sup>. This being so, it is very difficult for the individual members to get an assurance implemented. Sometimes, it is said, a minister might claim that a particular assurance had been implemented,

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1. Morris-Jones, *op. cit.*, p. 314

2. Speaker's address to the Committee on Government Assurances on 6th April, 1955.

but if one goes further into the matter he would find that there is no implementation at all. Sometimes, a portion of the assurance, which is not substantial, is implemented and the material part of it is not attended to at all. The individual members have no means of knowing whether all the assurances made by the Ministers have been implemented as they have no complete record of such assurances. Moreover, if the implementation of assurances is delayed beyond a reasonable time they lose all their value and public interest.

It is to remove these difficulties and in order to watch over the implementation of such assurances, that Lok Sabha has devised a machinery since 1953 and a Committee on Government Assurances has been constituted. The Committee originated from pressure by back-benchers in the first days of independence. Members wanted to know whether there existed any machinery to check the vast number of promises and undertakings which Ministers were in the habit of making in reply to questions and in debate.<sup>3</sup> Then the Government Chief Whip undertook the work and submitted statements on the actions taken by the Government on assurances, promises and undertakings during the session. Later on the Department of Parliamentary Affairs was set up to take up this work. But in 1953, the Speaker and his Secretariat found that the work of pursuing an assurance could be performed better by a machinery of the House than by a Government Department. Therefore, they decided to constitute a Parliamentary Committee for the purpose. Thus came into existence the Committee on Government Assurances. But this does not imply that the Department of Parliamentary Affairs ceased to work thereafter. In fact, it has become more active than before because there is a rival to it in the House in charge of the same job. Both the agencies are in close contact with each other.

3. See Morris-Jones, *op. cit.*, p. 314. He has given the history of the Committee on Government Assurances.

4. Rule 323.

## II

The rules provide that there shall be a Committee on Government Assurances to scrutinise the assurances, promises, undertakings, etc., given by Ministers, from time to time, on the floor of the House and to report on—

- (a) The extent to which such assurances, promises, undertakings, etc., have been implemented ; and
- (b) where implemented, whether such implementation has taken place within the minimum time necessary for the purpose.

The first Committee was nominated by the Speaker on the 1st December, 1953 with six members. Membership was increased to 15 on the 13th May, 1954. Now, the Committee consists of not more than fifteen members who are nominated by the Speaker<sup>5</sup>. No Minister shall be nominated a member of the Committee, and if a member after his nomination to the Committee is appointed a Minister he shall cease to be such after appointment. The term of office of members of the Committee shall not exceed one year.

A member may resign his seat from the Committee by writing under his hand, addressed to the Speaker.

The Chairman of the Committee shall be appointed by the Speaker from amongst the members of the Committee ; provided that if the Deputy Speaker is a member of the Committee he shall be appointed Chairman of the Committee<sup>6</sup>. The Deputy Speaker so far has not been taken as a member of the Committee since he has other committees to preside over<sup>7</sup>. If the Chairman is for any reason unable to act, the Speaker may appoint another Chairman in his place. If the Chairman is absent from any sitting, the Committee shall choose another member to act as Chairman for that sitting.

5. Rule 324.

6. Rule 258.

7. He is the Chairman of the Committee on Privileges, Committee on Subordinate Legislation and Committee on Private Members Bills and Resolutions.

The Speaker has been vested with power to discharge a member if he is absent from two or more consecutive sittings of the Committee without the permission of the Chairman.

Like all other Parliamentary Committees, the Committee on Government Assurances consists of members drawn from all groups in the House, and usually the Speaker ensures continuity of the membership in the Committee<sup>8</sup>

### III

The Committee is entrusted with the following functions<sup>9</sup> :

1. To scrutinise the assurances, promises, undertakings, etc. given by ministers on the floor of the House ;
2. To report on the extent to which such assurances, promises, undertakings, etc. have been implemented ; and
3. To report whether such implementation has taken place within the minimum time necessary for the purpose.

The Committee also decides whether a statement made by a minister is an assurance or not. The practice is that the Ministry of Parliamentary Affairs makes a list of assurances and the Lok Sabha Secretariat also prepares a list. If there is any difference between these lists, the Committee finalises it. What constitutes an assurance is determined by the Committee and its decision is final. Therefore, the Committee has prescribed the forms of assurances. The list of forms determined by the Committee is used as the tentative guide for extracting the assurances from the proceedings of the House.

When the question of preparing a list of forms of assurances was taken up, the Department of Parliamentary Affairs submitted to the Committee the following list of standard forms of assurances for its approval<sup>10</sup>.

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8. See the Second Chapter, Table No 2.

9. Rule 323.

10. On 14th December, 1953.

**List of Forms of Assurances**

1. The matter is under consideration.
2. I shall look into it.
3. Enquiries are being made.
4. I shall inform the Hon'ble Member.
5. This is primarily the concern of state Government but I shall look into it.
6. I shall write to the State Governments.
7. I assure the House that all suggestions by Hon'ble Member will be carefully considered.
8. I shall study the conditions on the spot during my tour.
9. I shall consider the matter.
10. I will consider it.
11. I will suggest to the State Governments.
12. We will put the matter in the shape of a resolution.
13. I shall bear that in mind.
14. I shall see what can be done about it.
15. I will look into the matter before I can say anything.
16. The suggestion will be taken into consideration.
17. The matter will be considered at the.....conference to be held on .....
18. The matter is still under examination and if anything requires to be done it will certainly be done.
19. The matter will be taken up with the Government of...
20. I have no information ; but I am prepared to look into the matter.
21. Efforts are being made to collect the necessary data.
22. The suggestions made will be borne in mind while framing the rules.
23. If the Hon'ble Member so desires, I can issue further instructions.
24. Copy of the report, when finalised, will be placed in the Library of the House.
25. I shall supply it to the Hon'ble Member.
26. I think it can be done.

27. If the Hon'ble Member's allegation is true, I shall certainly have the matter gone into.
28. We shall have to find out.
29. I will draw the attention of the.....Government who I hope will take adequate steps in this direction.
30. We will try to do what we can to lighten the position of the Bihar Jute Growers.
31. It is a suggestion for action which will be considered.
32. (Discussion on Demands). All the points raised by various Members will be considered and the result will be communicated to each Member.

The Committee considered the list and approved it.<sup>11</sup> But subsequently, it was suggested by the Ministry of Parliamentary Affairs that the list might be revised by adding three more forms and deleting 15 forms. No specific reasons were given for individual deletions, but it was generally stated that those forms were not considered to be assurances by Government. The following forms were proposed to be omitted by the Minister of Parliamentary Affairs :

1. The matter is under consideration.
2. Enquiries are being made.
3. I shall write to the State Government
4. I assure the House that all suggestions by Hon'ble Member will be carefully considered.
5. I will consider it.
6. I will suggest to the State Government.
7. I shall bear that in mind.
8. The suggestion will be taken into consideration.
9. The matter will be considered at the .....conference to be held on... ..
10. The matter is still under examination and if anything requires to be done it will certainly be done.
11. The suggestions made will be borne in mind while framing the rules.
12. If the Hon'ble Member's allegation is true, I shall certainly have the matter gone into.

11 First Report, op. cit., p 8.

13. We will try to do what we can to lighten the position of the Bihar Jute Growers.
14. It is a suggestion for action which will be considered.
15. (Discussion on Demands). All the points raised by various members will be considered and the result will be communicated to each member.

The Committee carefully considered the matter and were of the view that but for the two items, viz., (i) 'I shall bear that in mind', and (ii) 'We will try to do what we can to lighten the position of the Bihar Jute Growers', "all the rest constitute assurances in the real sense of the term, that is to say, matters in respect of which the House would like to be apprised of the position".<sup>12</sup>

It should be noted in this connection that an assurance for information to be communicated at a later date is given only when a Minister is not in a position to give the information on the spot, unless he preferred not to disclose it "in public interest", in which case he would have stated to that effect clearly. Therefore, whenever a Minister postpones a final and complete answer, it is in fitness of things that complete information is placed before the House at the earliest opportunity. It may be argued that a Minister sometimes uses conditional sentences, such as, 'if the Hon'ble Member wishes to know', and therefore it is not obligatory on him to place the information before the House of his own accord unless further pressed. The Committee have considered the matter carefully and felt that the conditional 'if' etc., was used as a courtesy, and the silence of the member in the House should be construed to mean that the House desires to have the information.<sup>13</sup> It should be also noted in this connection that when a member has asked a question or made a suggestion and the Speaker has allowed it, it ceases to be a matter only between the member and the Minister. The question has been publicly asked and the Minister is bound to make his reply known to

12 First Report, op. cit., p 2.

13. First Report, paragraph 10.

the House. Indeed, if the argument that the member should specifically write for information, is taken literally, there will be a stream of correspondence between the members, Parliament Secretariat, Ministers and so on in respect of matters in which the whole House is interested, and it is obvious that such unnecessary correspondence and delay should be avoided.

There is also another aspect of the matter. Since the point has been mentioned in the House and has appeared in the Press, it is ultimately in the interest of Government themselves to give the information as quickly as they can. It may be stated that if a Minister does not want to commit himself to give information later, he should preferably say so plainly or ask for notice so that the House is not in doubt as to the intentions of the Minister, and if the Member or the House wishes to pursue the matter, they may adopt such course as is open to them.

The Committee have therefore considered and finalised<sup>14</sup> a list which includes additions and deletions agreed to by the Committee which should be treated as a standard list of forms which constitute assurances.

The Committee finally agreed not to include the two items No. 13 and 30 of the list given above, but decided to add the following four :

1. Information is being collected and will be laid on the Table of the House.
2. I am reviewing the position.
3. Directions by the Speaker, Deputy Speaker or the Chairman involving action on the part of Ministers.
4. All specific points on which information is asked for and promised.

There are thus in all 34 forms approved by the Committee. Strictly speaking directions by the Speaker, Deputy Speaker or the Chairman are not and cannot be assurances of the Ministers. But Ministers are obliged to comply with those directions and to report to the House. It may be one of the duties of the

14. On the 9th April, 1954

Committee to see that the compliance is made to such directions in respect of any action to be taken in response to any question or suggestion of any member. The direction of the Speaker to any Minister to do a particular thing is constructed to be a direction of the House and the Minister is said to have given implied assurance to act accordingly ; hence it is an assurance for all practical purposes.

Sometimes questions have been raised as to the propriety of the inclusion of certain statements of ministers in the list of assurances. Do such statements as "I would like to check up before I answer" constitute an assurance ? This question engaged the attention of the Committee for some time and it was decided that it constituted an assurance.<sup>15</sup>

An actual instance may be taken. By a supplementary question arising out of starred question<sup>16</sup> Dr. Jaisooriya wanted to know whether the specification and particulars for putting up a machine tool plant in India were called for from a firm in Czechoslovakia and then the same specifications were given over to Messrs. Oerlinkon Machine Tool Works, Buehrle and Company, Zurich, Switzerland, and the Minister of Production replied, "I would like to check up before I answer. Thereupon the Prime Minister made the following statement :

'I cannot answer that question, but should think it exceedingly unlikely, because the Honourable Member's question is a hint that, that was done. So far as I know, it was not done. I cannot be sure, but I am sure that this kind of thing if it is done, is very improper. I am quite sure it could not have been done.'

The reply given by the Minister of Production was extracted as an assurance by the Department of Parliamentary Affairs but it was subsequently dropped by them on the 13th August, 1953 (before the Committee on Assurances came into existence) on representation from the Ministry as, according to them, the statement made by the Prime Minister closed the entire issue.

15. Second Report, May 1955, p. 15.

16. No. 453 answered on the 3rd March, 1953.

The Department of Parliamentary Affairs later intimated that this item was included erroneously in the statement of Assurances and requested the Committee that the same may be deleted therefrom.

The expression used by the Minister of Production does not fall within any of the standard forms of Assurances but there is an element of assurance in the Prime Minister's statement following as it does upon the Production Minister's statement, 'I would like to check it up before I answer'.

A serious charge was made and the Government wanted time "to check it" to deny or accept the charge. The Prime Minister felt the enormity of the crime to be such that he thought that it could not have happened, but even then he did not deny it in unambiguous terms. There was thus as much assurance in the statement of the Minister of Production as if he had stated "I must look into the matter before I can say anything."<sup>17</sup>

If these statements are compared, one approved form of assurance and the other stated by the Production Minister it can be seen that materially these statements are synonymous and they mean and imply the same thing. These statements are conditional propositions. In such propositions, the part which expresses the condition is called the "antecedent", and the part which indicates what follows is known as the "consequent". In the present case, the antecedents are almost the same: "I would like to check it up" and "I must look into the matter" are expressions meaning the same condition. The expression "before I answer" and "before I can say anything" mean the same thing—literally and materially. Thus one thing has been made clear that if an expression does not strictly fall within the standard forms of assurances, the synonymous sentences and words or clauses should be taken as the expression involving some assurances.

Sometimes, the Ministries question the propriety of the inclusion of certain statements made by a minister on the floor of the House in the list of assurances. The Committee has

17. Second Report, op. cit., p. 15.

decided that such cases should be referred to them and their decision should be final. The decision of the Committee was also communicated to the Department of Parliamentary Affairs.

In one particular case, the Department of Parliamentary Affairs instead of referring the matter to the Committee on Assurances for a decision, themselves decided to delete the item "the scheme is under consideration" from the list of assurances, which was submitted by them to the Committee.<sup>18</sup> This procedure was not in accordance with the directions given by the Committee. When the matter was brought to the notice of the Committee by Lok Sabha Secretariat, it held that such statements would "constitute assurances in the real sense of the term, that is to say, matters in respect of which the House would like to be apprised of the position".<sup>19</sup> The statement "scheme is under consideration" naturally conforms to the standard form of assurance i.e. "The matter is under consideration".<sup>20</sup> Hence it is nothing but an assurance. Even though there is no explicit undertaking to lay further information on the Table of the House, it cannot be denied that there is an assurance implied in the statement. When a Member asks a question, the Ministers cannot escape by giving an evasive reply saying that "the matter is under the consideration of the Government". The House should reasonably expect to know the outcome of such "consideration". These are the forms which include assurances.

#### IV

Let us now discuss the procedure of the Committee. First stage is concerned with the extraction of assurances from the various proceedings of the House. To assist the Committee the Question Branch of the Lok Sabha Secretariat having the

18. The case arose out of the answer to the Question No. 1259 on 14th September, 1953 in Lok Sabha. The Deputy Minister of Rehabilitation replied "A scheme is under consideration." The Department of Parliamentary Affairs included this reply in the list of assurances. The Ministry of Rehabilitation represented to the Ministry of Parliamentary Affairs to delete it from the list. The list was already submitted by the Ministry of Parliamentary Affairs to the Committee.

19. First Report, op. cit., para 9.

20. Item I, See Appendix "C" of the First Report.

standard forms as the guide culls out from the proceedings of the House all the assurances, promises and undertakings given by the various Ministers during the question hour.<sup>21</sup> Another branch culls out assurances etc. given on the floor of the House during the other proceedings.<sup>22</sup> All these are then put together and tabulated by the Lok Sabha Secretariat.

So far as the Government side is concerned, the Ministry of Parliamentary Affairs also prepares on the basis of the standard form its own list of assurances promises, undertakings etc. from the proceedings of the House.<sup>23</sup> Formerly, it used to submit its list to the various Ministries after the session was over. But now, from time to time even during the session, it prepares the lists and sends one to the Lok Sabha Secretariat and the others to the Ministry concerned of the Government of India. On receipt of replies as to the action taken by the Government departments, a statement is prepared by the Department of Parliamentary Affairs showing the action taken on each assurances and placed on the Table of the House from time to time.

It may be noted that when the Department of Parliamentary Affairs submits its list of assurances to the Lok Sabha Secretariat, the latter compares those assurances with its own list. Whenever any important item appears to be omitted, it is brought to the notice of the Committee. The Committee then takes up these things, looks into them and finds out whether those are really assurances or not. If the Committee feels that they are either assurances or promises or undertakings which have got to be implemented by Government, then the matter is taken up with the Government Departments concerned. The Committee thus, comes into the picture only at the final stage. Again, the Committee also considers the report laid on the Table by the Minister of Parliamentary Affairs. In all cases of extraction of the assurances from the records the standard forms are used as guide. The Minister of Parliamentary

21. Speaker's Address on 8th August, 1957.

22. Ibid.

23. Journal of Parliamentary Information, Vol. 3. No. 2, p. 138.

Affairs has no discretion in this respect. After the list is finalised, the Department of Parliamentary Affairs and the Lok Sabha Secretariat ask the Ministries concerned to implement the assurances. The concerned Ministries thereupon take action. After they take action they intimate the Department of Parliamentary Affairs on the actions taken. The Department of Parliamentary Affairs then makes a statement of actions taken and lays it on the Table of the House from time to time. Such a statement shows clearly the implementation of the specific assurances supported by documents.

When any statement on the implementation of the assurances is laid on the Table, the Committee is seized of the matter in respect of scrutiny and examination.

The Committee examines this statement first from the point of view whether there has been a complete implementation of the assurances, undertakings or promises or whether the statement laid on the table revealed that something further required to be done on any of the assurances.

Here the question arises, what is implementation? The Ministry of Parliamentary Affairs suggested the following :

"The assurance should be deemed to have been satisfactorily implemented when information furnished in implementation of it is of such extent as would not have caused an assurance to arise if it had been given at the time of answering a question on the floor of the House"

While agreeing to bear this suggestion in mind in considering the nature and extent of implementation of assurances, the Committee added that each case should be decided on its own merit.<sup>24</sup> In this connection, the Committee felt that it was always open to the Government to bring to the notice of the Committee any facts which they desired the Committee to be seized of with respect to any specific assurance.<sup>25</sup>

The Committee felt that if the implementation of an assurance would be delayed beyond a reasonable time, it loses all its value and public interest. They therefore,

24. This decision was taken in its meeting on 22nd December, 1955.

25. Third Report, December, 1956, p. 2.

recommended that an assurance given by Government in Lok Shaba should normally be fulfilled within two months unless the matter involved is such that it requires a longer period in which case the circumstances should be explained to the Committee and a time limit within which the assurance would be implemented by Government indicated to the Committee.

If the Committee deems it necessary to get any information or clarification with regard to an assurance or the implementation thereof, it examines the Secretaries to the Government and the Head of Departments. This procedure has been quite effective because the concerned officials have to account for the delay in implementation, etc.

The Committee also pursues the matter by reviewing the past lists and the outstanding assurances. In case it finds that any assurance is outstanding against a Ministry, it asks the Ministry to state reasons. The Ministry then gives reasons for non-implementation of the assurances. If the Committee is not satisfied, it pursues the matter further.

It has been the general policy of the Committee to drop those assurances which had been satisfactorily implemented and assurance involving a matter which cannot be disclosed "in public interest"; and in respect of those assurances which had not been implemented satisfactorily, the Committee pursues the matter. Sometimes the Committee issues questionnaires and summons the officials to get clarification on the non-implementation or incomplete fulfilment of an assurance.<sup>26</sup> An assurance of considerable public importance is pursued by the Committee to its satisfactory implementation. Several sittings of the Committee are devoted to such matters and evidences are heard by it from the representatives of the Ministries concerned. Incomplete or non-satisfactory implementations are taken very serious note of, and the Committee has succeeded in getting satisfactory fulfilment of the assurances in several cases.

<sup>26</sup> Second Report, op. cit, p. 5. It is in connection with the assurances given in the House on 29.9.51 on the Delhi Premises (Requisition and Eviction) Amendment Bill, 1950.

Let us take some test cases to see how effective the Committee is. During the short period of one year i.e. from May 1952 to May 1953, the total number of assurances stood at 1391. It has been noticed that up to March 1, 1954, 924 assurances had been implemented and reported to the House but 467 assurances still remained to be implemented. Of the assurances which have been implemented, 74 have taken over one year, 109 have taken over nine months and 121 have taken over six months. As the Committee have remarked, this state of affairs does not speak of the efficiency and speed in the various Ministries.<sup>27</sup> The Committee then pursued the matter and got most of them implemented.

Again some specific cases may be given here to indicate how the Committee has taken serious view of any delay and non-implementation.

A starred question<sup>28</sup> was asked to the Government whether it was a fact that certain displaced persons who had been allotted 1,000 acres of land in Punjab had not in fact been given any land, even though their claims had been placed in the "A" class. In reply, the Government stated that the information would be supplied in due course. This item was included in the list of assurances and implemented by Government who said that "it has been found possible to give land to some allottees". The Committee felt that this was an incomplete and unsatisfactory answer and on enquiry the Minister of Rehabilitation who was addressed in the matter stated that the information was not readily available and was being called for from the State Government. Thus from 26th November, 1952 till 5th March, 1954, complete information could not be supplied by the Ministry. Ultimately the assurance was implemented.

In another case, the Minister of Home affairs gave an assurance during the discussion on the Criminal Law Amendment Bill that retired people would not be taken while making appointments of special judges.<sup>29</sup> In pursuance of this

27. First Report, para, 13.

28. Question No. 720 on 26th November, 1952.

29. 15th July, 1952.

assurance all that the Ministry did was to lay on the Table a copy of the instructions they had issued on the subject to all State Governments.<sup>30</sup> The Committee, however, were not satisfied with this and desired to know how many persons had been appointed as special judges in the States after the instructions were issued and how many among them were retired persons. The matter was therefore, taken up<sup>31</sup> with the Ministry and in their<sup>32</sup> reply the Ministry only stated that appointments of special judges were made by the State Governments and as such they did not have the required information. In this case the Committee felt that the responsibility of the Government had not ended by merely laying down instructions to the State Governments but that they should follow them up by asking the State Governments to furnish particulars of appointments subsequently made to see whether the instructions were being properly observed.

The Committee desired to know<sup>33</sup> the probable period by which Ministries proposed to implement fully the outstanding assurances. The Department of Parliamentary Affairs stated that they could not lay down a programme as the process of implementation was conditional upon a number of factors over which the Ministries had no control, and that assurances in respect of policy decisions, completion of schemes, results of projects, decisions on reports and such like other subjects were by their nature bound to take time. They pleaded that no time table could thus be observed in these matters. The Committee while appreciating these difficulties was of the view that "expeditious implementation of assurance is desirable and that explanations should be supplied for inordinate delays whenever they occur".

There appears from the above explanation of the Ministries that they cannot implement some assurances with a period of two months prescribed by the Committee in its first report.

30. 18th December, 1952.

31. On 9th March, 1954.

32. On 25th March, 1954.

33. On 25th September, 1954.

The plans and completion of projects etc. would take time. The implementation of the assurances therefore, would not be possible within the prescribed period. In this connection it may be noted that the Committee likes to examine the explanation on such case of non-implementation of an assurance. A mere statement that it is not possible to implement in time is not enough. This assertion of the Committee has proved useful in connection with the speedy fulfilment of the assurances.

If we review the statements showing the number of assurances given during the first Eight Sessions of First Lok Sabha and number implemented,<sup>34</sup> as a test case, the fruits of the tireless work of the Committee during its one year term<sup>35</sup> may be easily seen. The following table, taken as a sample case, would illustrate the point :

Table : 4 — (Number of assurances and number implemented.)

Session	Total No. of assurances given during the session	Total No of assurances fulfilled till date.	Balance
1st Session 1952	406	384	22
2nd Session 1952	394	355	39
3rd Session 1953	591	483	108
4th Session 1953	424	310	114
5th Session 1953	389	269	120
6th Session 1954	339	252	87
7th Session 1954	137	57	79
8th Session 1954	196	5	191
Total ...	2,875	2,115	760

34. Up to 31st December, 1954

35. It was first constituted with 6 members on 1st December, 1953

The above table indicates that during the one year term the Committee could get the implementation of 2,115 out of 2,875 assurances leaving a balance of 760 only which were pursued later. The utility of the Committee can be further seen, again as a test case, from the following table which show the number of assurances implemented during the period of 5 months (from 31st August, 1954 to 31st December, 1954).

Table : 5 — ( Session-wise ) <sup>36</sup>

Session	Total No. of assurances given.	Number of assurances fulfilled till 1st August.	Number of assurances fulfilled during the period (1st August to 31st December 1954)
1st Session 1952	406	330	54
2nd Session 1952	394	284	71
3rd Session 1953	591	382	101
4th Session 1953	424	202	108
5th Session 1954	389	114	155
6th Session 1954	339	51	201
Total	2,543	1,363	690

## VI

The Committee on Government Assurances could work effectively only if its members take up the work with interest. Experience so far reveals that the members of the Committee ordinarily take interest in the Committee work.

The following table, taken as a sample case, would show that the attendance of Members ( during the period 19th March, 1958 to 7th May, 1958 ) was very much satisfactory.

36. Source : Second Report, op. cit ,  
Appendix VI and VIII.

Table : 6—(attendance of the Members) <sup>37</sup>

Serial No.	Sittings on	Number of Members attended
1.	19th March, 1958	8
2.	7th May, 1958	9
3.	30th August, 1958	7
4.	24th September, 1958	9
5.	December, 1958	11
6.	31st March, 1959	8
7.	4th May, 1959	5
8.	7th May, 1959	9
9.	14th August, 1959	8
10.	11th September, 1959	7

The individual members of the Committee have also shown their keen interest in the Committee work. The following table, taken as a sample case, would indicate the active participation of each member in the Committee's work. <sup>38</sup>

Table : 7—Individual attendance Table.

Sl. No.	Name of the Members.	No. of meetings attended 1958	No of meetings attended 1959	Remarks.
1.	Pandit Thakurdas Bhargava (Chairman)	5	5	Total No. of meetings in 1958 is 5 and in 1959 is 5
2.	Ambalam, P. Subbiah	2	5	
3.	Basappa, C. R.	3	3	
4.	Bhakta Darsanam	4	3	
5.	Dube, Mulchanda	5	3	
6.	Khadilkar, R. K.	3	2	
7.	Malviya, Motilal	5	1	
8.	Meheta, Jaswantaraj	4	3	
9.	Nair, P. K. Vasudevan	2	2	
10.	Palchaudhuri, Ila	3	2	
11.	Pravakar Naval	3	0	
12.	Singh, Kamal	1	3	
13.	Vajapayee, Atal Bihari	1	2	
14.	Verma, Ramji	1	2	
15.	Sinha, Anirudha	5	5	

<sup>37</sup> Lok Sabha Parliamentary Committee : Summary of work, (1958—59).

<sup>38</sup> Ibid.

## VII

The Committee, as has been seen above, has become very useful to ensure that the ministers do not escape easily by throwing an assurance or undertaking in the House without taking any effective steps to implement it. But one or two suggestions may be offered here to strengthen its hands.

First, the Committee, being intended to pursue an assurance to its successful implementation, should be headed by one who has no feelings of loyalties to the ruling party. In other words, the Chairman should be drawn from the senior members of the Opposition. This would create a deterrent effect on the Ministries. The officials would be aware that they would be chased by a man who would not, on any account, shield them at all at any time.

Secondly, the Committee, as said in the beginning, owes its origin to the back-benchers. It is better that these back-benchers get opportunities as members of the Committee to pursue the assurance, because most of the questions arise from them.

Lastly, the activities of the Committee do not affect the policy of the Government nor do they control the administration. The Committee only pursues the assurances for implementation. This being the case, there is no harm if the Committee does not contain a majority from the ruling party. Even though the Chairman belongs to the Opposition, the ruling party would not lose anything if it does not get its proportionate strength in the Committee. As a compensation, the Minister of Parliamentary Affairs should be made a member of the Committee ; that would ensure the balance.

These suggestions are intended to make the Committee stronger. They would just help it, at least, to look stronger and active.

## CHAPTER VI

### COMMITTEE ON SUBORDINATE LEGISLATION

Subordinate legislation is "a necessary evil". The tendency to delegate legislative powers to executive agencies, it is alleged, has become so wide-spread and dangerous that the very existence and utility of the Legislature are at stake. Clothing the administrators with legislative power is regarded by many as an act of denial of civil liberties in certain circumstances. It is one kind of surrender of Parliament to the Executive ; and it has strengthened the bureaucracy, and may turn democracy into despotism and arbitrary rule. Again the speed at which the laws are made and amended through the process of subordinate legislation is likely to endanger the life, liberty and property of the citizens and what is worse "multiplicity of rules and amendments may exhaust the patience and defy the endurance of those who would understand them".<sup>1</sup> Yet it has come to stay. The problem now is not how to abolish the system or find a substitute, but how to ensure legislative control over subordinate legislation.

In England, in spite of the outcry against this growing menace of delegated legislation, there has been but little attempt to abolish it altogether. Till 1944, the House of Commons could not establish any Committee to scrutinise on its behalf the Rules and Orders made in pursuance of the various Acts. What is more significant to note is that whenever there was a proposal<sup>2</sup> to constitute a Committee to exercise control over the executive actions, the Cabinet strongly reacted against such moves on the ground that "Cabinet would tolerate no rivals to its authority in the House of Commons".<sup>3</sup>

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1. L. D. White, *Introduction to the Study of Public Administration*, pp. 544-45.

2. (a) For example, see Ramsay Muir, *How Britain is Governed*, 4th Edn., 1933, pp. 220-21.

(b) See also the evidence of Mr. David Leoyd George before the Select Committee on Procedure of 1930, H. C. 161 of 1931, pp. 43-44.

3. K. C. Wheare, *Government by Committee*, 1955, p. 206.

However, in 1944 a Select Committee on Statutory Rules and Orders was first constituted. By the Statutory Instruments Act, 1946, which came into effect on 1st January, 1948, the term "Statutory Rules and Orders" was replaced by the term "Statutory Instruments", and the name of the Committee was accordingly changed.<sup>4</sup> But the Committee has not yet been accorded a relatively permanent status of recognition in Standing Orders. Its terms of reference include the following :

"To consider every Statutory Instruments laid or laid in draft before the House, being an Instrument or Draft of an Instrument upon which proceedings may be or might have been taken in either House in pursuance of any Act of Parliament with a view to determining whether the special attention of the House should be drawn to it on any of the following grounds :

(i) that it imposes a charge on the public revenues or contains provisions requiring payments to be made to the Exchequer or any Government Department or to any local or public authority in consideration of any licence or consent, or of any services to be rendered, or prescribes the amount of any such charge or payments :

(ii) that it is made in pursuance of an enactment containing specific provisions excluding it from challenge in the courts, either at all times or after the expiration of a specified period ;

(iii) that it appears to make some unusual or unexpected use of the powers conferred by the State under which it is made ;

(iv) that it purports to have retrospective effect where the parent Statute confers no express authority so to provide ;

(v) that there appears to have been unjustifiable delay in the publication or in the laying of it before Parliament ;

(vi) that there appears to have been unjustifiable delay in sending a notification to the Speaker under the proviso to Sub-Section (i) of Section 4 of the Statutory Instruments Act, 1946, where an Instrument has come into operation before it has been laid before Parliament ;

4. Ibid, p. 206.

(vii) that for any special reason its form or purport calls for elucidation.<sup>5</sup>

It may be, however, noted that the Committee, while bringing to the notice of the House of Commons any Statutory Instrument that appears to make some unusual or unexpected use of the powers conferred by its parent Act or that, from its form or purport, calls for elucidation, may introduce some element of discussion of policy. But generally speaking it is not authorised to formulate or criticise policy. What it scrutinises is the "application of policy—its forms and results".

The most notable feature of the British Committee on Statutory Instruments is the Selection of its Chairman. So far it seems that a tradition has been established that the chairmanship should be placed in the hands of an Opposition member.<sup>6</sup> As it is the task of the Committee to scrutinise legislative actions of Government Departments, it is proper that it should be "led by a Chairman who has no conflicting loyalties to embarrass or hinder him in the conduct of his duties."<sup>7</sup>

Another important feature of the Committee on Statutory Instruments is that it has an expert adviser on its staff who enables the Committee to cope with the legal intricacies of delegated legislation. This expert assists the members of the Committee in judging the value of the explanations or defences which Departments put before them when they are asked to give evidence upon the Instruments which the Committee is seized of.

It may be observed here that the success of the Committee on Statutory Instruments has evoked interest everywhere including in India.

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5. The terms of reference of the Committee as on 4, November, 1953.

6. See Reports of Select Committee on Delegated Legislation I, 1952-53. p. vii, para 47.

7. K. C. Wheare, *op. cit.*, p. 213.

## II

Legislative output in India is increasing tremendously year by year. The table below gives a comparative idea of the volume of legislation and number of hours devoted in the later years in India and the earlier periods.

Table 1. (Number of Bills passed).<sup>8</sup>

Year	No of Bills passed	No of sittings held	Duration of sittings in hours
1935	14	66	206
1936	24	86	409
1937	29	78	468
1938	26	99	468
1939	42	59	280
1940	42	52	247
1941	27	46	219
1942	26	41	194
1943	30	67	319
1944	18	52	247
1945	11	41	194
1946	38	75	356
1947	58	68	323
1948	62	74	352
1949	77	79	362
1950	80	99	496
1951	72	150	987
1952	82	123	880
1953	58	137	749
1954	54	137	716
1955	70	139	859
1956	106	151	1026

8. Prepared from the Proceedings of the Central Legislative Assembly and the House of the People.

The table above covers the period from 1935 to 1956. It may be seen from the table that while the number of measures enacted annually before 1947 varied from 11 to 42, the measures enacted for the period after 1947 ranged from 54 to 106.

A careful examination would indicate that the number of sittings in 1951 and 1956, the beginning and the end of the First Five Year Plan, is almost the same, but the hours of business have considerably increased from 987 to 1026. The increase in the volume of business has necessitated the delegation of Parliamentary power of legislation to the executive within the scope and limits that the legislation may impose and the appointment of a Parliamentary Committee as elsewhere to scrutinise and control the details of the Subordinate legislation issued under the Act.

The First Committee on Subordinate Legislation was established in December, 1953. Even earlier there was a move for the establishment of such Committee. Dr. B. R. Ambedkar, the then Law minister in the Provisional Parliament made a suggestion in the House that "it may consider the procedure which has recently been adopted in the House of Commons which consists of having a Standing Committee of the House to examine such delegated legislation and to bring to the notice of Parliament whether the delegated legislation has exceeded the original intentions of Parliament or has affected any fundamental principle".<sup>9</sup>

Following the suggestion, the Speaker forwarded to Dr. Ambedkar, a Memorandum prepared on the subject by the Secretariat for his reactions.<sup>10</sup> Dr. Ambedkar then sent the Speaker an outline of a scheme for a Committee on Subordinate Legislation. The Secretariat then framed draft rules which were adopted by the Rules Committee of the House at their meeting held on April, 24, 1951. The First Committee on Subordinate Legislation was constituted with ten members on 1st December, 1953. As the strength of the Committee was

9. 11th April, 1950.

10. On 24th June, 1950.

increased by an amendment to the Rules, five more members were nominated to the Committee by the Speaker.<sup>11</sup> Since then the number of membership of the Committee has remained at fifteen. They are all nominated by the Speaker for one year.<sup>12</sup> It has been specifically ordained by the Rules that a minister shall not be nominated a member of the Committee, and that if a member, after his nomination to the Committee, is appointed a minister he shall cease to be a member of the Committee from the date of such appointment.<sup>13</sup>

A convention has been established that the Speaker consults the various party leaders and whips before finalising his nomination of the members of the Committee. This happy practice has made the Committee a real small scale replica of the House. The Chairman of the Committee is nominated by the Speaker from among the members of the Committee. This power of the Speaker has so far ensured the continuity of the members.

Unlike that of many other Committees the work of this Committee is of specialised nature. The language of subordinate legislation is legal language and it is seldom free from obscurity and legal twist and only a specialist can wade through it. It is, therefore, desirable, nay, even essential, that the Committee should consist of members having legal training. Since the Committee is to scrutinise executive actions, it would be equally desirable again that the Chairman of the Committee should belong to the Opposition as is done in the House of Commons. But so far it is only on one occasion that a member of the Opposition, Shri N. C. Chatterjee, had been nominated as the Chairman.<sup>14</sup> All other Chairmen of the Committee on

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11. 13th May, 1954

12. Rule 318

13. Proviso to Rule 318.

14. As a member, Shri N. C. Chatterjee presided over the meetings of the Committee previously also in the absence of the Chairman ( on 30th March, 1955, 6th April, 1955 and 20th April, 1955 ).

Subordinate Legislation have been drawn from the treasury bench.<sup>15</sup>

### III

The Committee on Subordinate Legislation is entrusted with the responsibility to see whether the authority delegated by Parliament in the Statutes has been properly exercised by the executive to the extent permissible and in the manner envisaged.<sup>16</sup> It reports to the House and advises it on the action which may be deemed necessary. But in discharging the duties the members of the Committee should not act in hostility to the executive. Its objective is to ensure uniformity of procedure in rule-making and its efforts would be complementary. The executive is always expected to comply with the wishes of the Parliament and frame rules and regulations in exercise of the authority vested in them by law. Sometimes in their "professed eagerness to discharge duties more expeditiously and effectively the Executive may commit mistakes. May be, sometimes out of thirst for greater and wider power they might go astray".<sup>17</sup> The Committee is to put them in their right track. It is also expected that the Committee shall guide the executive in the proper discharge of their duties for the benefit of the masses.

There is a danger in delegated legislation. The rules, regulations, by-laws and orders, are mostly framed by the officials of the Secretariat in their rooms. These officials have an approach of their own. They have little contact with the

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15 The following persons acted as Chairman of the Committee since  
Or first Lok Sabha.

which 1. H. V. Pataskar (Congress), 1953-54 (December).

their 2. M. Ananthasayanam Ayyanger (Congress) 1954-1955 (December).

Subo 3. N. C. Chatterjee, (Hindu Mahasabha), 1955-1957.

1st D 4. Sardar Hukum Singh (Congress), 1958 to date.

16. Address by the Deputy Speaker to the Committee on 16th July,

— 57. See Jrl. of Parl. Information, Vol. III, No. 2, p. 140.

17. Sardar Hukum Singh. Ibid, p. 140.

masses and seldom know the effect of a particular legislation on those who are affected by it.<sup>18</sup> The Committee being composed of the members drawn from Lok Sabha know the intentions of Parliament as well as the interests of the people, and it is best suited to advise them in these respects.

As the Speaker made it clear, the Committee on Subordinate Legislation should not act as the Opposition to the executive or to administration but as a responsible body of persons appointed by Parliament to subject to detailed scrutiny the fairly voluminous output of subordinate legislation in a non-partisan manner, taking an independent and detached view ;<sup>19</sup> they have to safeguard public interests and to "eliminate as far as possible the abuse of authority or any encroachment on Parliamentary sovereignty."<sup>20</sup>

When rules, bye-laws etc. are laid before the House as per the Rules,<sup>21</sup> it shall be the duty of the Committee on Subordinate Legislation to scrutinise and report to the House, whether the powers conferred by the Constitution or delegated by Parliament are being properly exercised within such delegation.<sup>22</sup>

The duties of the Committee have been enumerated in the Rules.<sup>23</sup> After each rule is laid before the House, the Committee shall, in particular, consider :

- i) whether it is in accordance with the general objects of the Constitution or the Act pursuant to which it is made ;
- ii) whether it contains matter which in the opinion of the Committee should more properly be dealt within an Act of Parliament ;
- iii) whether it contains imposition of any tax ;
- iv) whether it directly or indirectly bars the jurisdiction of the Courts ;

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18. Speaker's Address, December, 1954, op. cit.

19. Speaker's Address, December, 1954. op. cit.

20. N C Chatterjee, First Parliament ; A Souvenir, p 14

21. Rule 234

22. Rule 317.

23. Rule 320.

v) whether it gives retrospective effects to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power ;

vi) whether it involves expenditure from the Consolidated Fund of India or the public revenues ;

vii) whether it appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made ;

viii) whether there appears to have been unjustifiable delay in its publication or in laying it before Parliament ;

ix) whether for any reason its form or purport calls for any elucidation.

It may be observed here that the functions of the Committee provided in the Rules are on the lines of the functions of the Committee on Statutory Instruments of the House of Commons of the United Kingdom. If the Committee is of opinion that any rule should be annulled wholly or in part, or should be amended in any respect, it shall report that opinion and the grounds thereof to the House. If the Committee is of opinion that any other matter relating to any rules should be brought to the notice of the House, it may report that opinion and matter to the House.<sup>24</sup>

Thus, it may be seen that the Rules of Procedure have enumerated all the important aspects of the scrutiny of subordinate legislations.

The Committee as the custodian of the rights and authority of Parliament in its legislative sphere, has to see if any tax is imposed by subordinate legislation. The power to tax<sup>25</sup> is vested in Parliament. Further, no person shall be deprived of his property save by authority of law. When a portion of the property of a citizen is to be taken in the shape of tax, that can only be done by "authority of law". The taxing power, therefore, cannot be delegated. The Committee is to see that no regulation or rule authorises the imposition or collection of

24. Rule 321.

25. Art. 265. No tax shall be levied or collected except by authority of law.

any tax. Further, the Committee is to ensure that no penal provision is made in subordinate legislation.

Any grant or appropriation of money out of Consolidated Fund of the Union can be made only by a Bill passed by the House of the People with the concurrence of the Council of States.<sup>26</sup> Executive orders cannot therefore authorise the Government to appropriate money from the Consolidated Fund of the Union. Thus, it is for the Committee on Subordinate Legislation to see that the constitutional provisions are not violated by the power-craving wing of the Government.

#### IV

A word may be said about the procedure the Committee follows in its work. The Committee has determined its own procedure. It has been decided that while examining the rules, regulations etc. if it felt that "the executive officials were transgressing the limits of their powers, members might formulate questions which would be consolidated and a questionnaire might be prepared by the Parliament Secretariat".<sup>27</sup> The Committee would then, if necessary, examine the representatives of the Ministry concerned. The officials are examined and their opinions, clarifications and explanations, if any, are recorded in a summarised form. After considering the whole matter, the Committee would report to the House the conclusions arrived at by them.

The report normally consists of the following :—

- (a) Introduction.
- (b) Different Rules examined and opinion thereon.
- (c) Delay in laying "orders" on the Table.
- (d) Action taken or proposed to be taken by Government on various recommendations of the Committee.
- (e) Summary of recommendations.
- (f) Appendices.
- (g) Minutes.

26. Art. 114 & 204 (1).

27. Minutes of the first meeting held on, 11. 12. 1953. See First Report of the Committee on Subordinate Legislation, 1954, p. 7.

It may be noted here that there is no minute of dissent to the report though the report is to embody the decisions of the majority present and voting.<sup>28</sup> The report is presented to the House by the Chairman on behalf of the Committee.

## V

The Committee has done excellent work to minimise the inherent risk in the improper exercise of the rule-making powers. One difficulty inherent in the situation is to find out the dividing line between policy and detail. The Committee has been aware of the tendency of the bureaucrats to steal power on the pretext of determination of the facts of different cases. It has been demonstrated by the different reports submitted by the Committee that they have not functioned as an Opposition to the executive or to the administration but as a responsible body of persons appointed by the Parliament to subject to detailed scrutiny the fairly voluminous output of subordinate legislation in a non-partisan manner.

On many occasions the Committee has laid down principles on the delegation of authority to subordinate agencies and sometimes it has gone to the extent of prescribing forms and rules for submission of subordinate Legislation to the House.

Some of the recommendations on rule-making power made by the Committee in its reports may be summarised as follows :<sup>29</sup>

- a) The power to impose fees by rules or by-laws should be expressly given in the parent Act.
- b) Government should not provide by rules for imposition of penalties beyond the statutory provisions of the Act.
- c) Specific sections of the parent Act should invariably be cited in the preamble of all rules, regulations etc. for the

28. Speaker's Direction No. 68 (3) It reads, "There shall be no minute of dissent to the report "

29. During the period 1957-59 (till the end of May, 1959) the Committee submitted 5 reports. See the Jrl. of Parliamentary Information, Vol. V, p. 148.

purpose of enabling all concerned to know under what precise authority the rules have been made.

d) Retrospective effect to any provision should not be given by Rules unless the Act expressly confers such powers.

e) All rules should bear short titles so that they may be referred to conveniently, located easily and understood clearly by the public.

f) Whenever rules are laid on the Table of the House after a period of 15 days, they should be accompanied by a statement explaining the reason for the delay.

g) There should be uniformity of provisions relating to the mode of appointment and the term of office of the representatives of Parliament on statutory bodies constituted by Government.

h) Whenever an Act requires certain matters to be regulated by rules etc. to be made thereunder, such rules should be framed immediately after the commencement of the Act.

i) Ordinarily rules should be framed under an Act as soon as possible after the commencement of the Act, and in no case this period should exceed six months. If no rules are framed within a reasonable period after the commencement of the Act, the Committee may take up the matter with the Ministry concerned and report to the House the cases where it is felt that undue delay has occurred in framing the rules.

j) Mere laying of the rules on the Table of the House for a specified period does not amount to their approval, which could only be achieved by bringing forth an affirmative motion in the House in that behalf.

The Committee insists also that in respect of Bills containing proposals for delegation of legislative powers, a memorandum should accompany the Bill.<sup>30</sup> Such a memorandum should state clearly to which subordinate authority such delegation is made and also the points which may be covered by the rules and the manner in which such power is to be exercised.

30. First Report presented to the House on the 17th March, 1954.

To ensure uniformity in the provisions of Acts delegating legislative powers, the Committee has directed that in future the Acts containing provision for making rules, etc. should provide that such rules should be laid on the Table as soon as possible and all these rules should be laid on the Table for a uniform and total period of 30 days before the date of their final publication. One important recommendation they made, to make the position clear, is that in future the Acts authorising delegation of rule-making power should contain express provision that "the rules made thereunder shall be subject to such modifications as the House may wish to make."<sup>31</sup>

From the examination of various Acts it is found that four types of provisions were made in delegating rule-making powers to the Government or other authorities.<sup>32</sup>

i) The Central Government is empowered to make rules for the purpose of giving effect to the provisions of an Act, by notification in the official gazette.<sup>33</sup>

ii) The Central Government is empowered to make rules by notification in the official gazette and is required to lay them before the House as soon as may be after their publication in the Gazette.<sup>34</sup>

iii) The rules made by the Central Government are subject to such modifications as Parliament may make after they are laid on the Table.<sup>35</sup>

iv) The rules made under an Act are required to be

31. Ibid , p. 4.

32. Ibid., p. 3

33. Sec. 8 of the Telegraph Wires (unlawful possession) Act, 1950, (ii) Secs 189 & 191 of the Airforce Act, 1950, (iii) Sec. 14 of the Iron & Steel Co , Amalgamation Act, 1952 & others.

34. (i) Sec. 17 of the Coal Mines (Conservation & Safety) Act, 1952, (ii) Sec. 22 of the Requisitioning & Acquisition of Immovable Property Act, 1952 (iii) Sec 11 of the Salaries & Allowances of Officers of Parliament Act, 1953.

35. Sec. 114 of the Insurance Act, (ii) Sec. 3, PEPSU Legislation (Delegation of Power) Act, 1953, (iii) Sec. 34, Reserve and Auxiliary Airforce Act, 1952 (iv) Sec. 133, Motor Vehicle Act, 1939.

laid on the Table of the House for a specified period before the date of their final publication.<sup>36</sup>

There was a time when a majority of Acts containing provision for rule-making powers, required the Central Government merely to publish these rules in the official Gazette, to bring them into force. In those cases there was no provision for laying them on the Table of the House, and the House could exercise no direct check or scrutiny over them. The usual enabling clause was that "the Central Government may, by notification in the official Gazette, make rules to carry out purposes of this Act."<sup>37</sup>

In other cases, the rules were required to be laid on the Table of the House after their publication in the Gazette, but the enabling Acts did not provide that such rules should be subject to modifications made therein by the House. In only a few Acts, provisions existed ( and also exist at present ) that the rules etc. framed thereunder should be laid on the Table of the House, and should "be subject to such modifications as the House may make therein." In such cases only, it is possible for the House to exercise control over subordinate legislation falling in this category.

The Committee considered that once a set of rules is laid on the Table of the House, the House is seized of it, and it has the inherent power to make such modifications in those rules as it likes, irrespective of the fact whether the enabling Act stipulates that the rule shall be subject to modifications by the House or not.

The Speaker has also issued directions to that effect.<sup>38</sup>

It is interesting to note that none of the Bills introduced in the House before 1954 except the Transfer of Evacuee Deposits Bill, 1954, was accompanied by a memorandum in terms of the Rules of Procedure, explaining the proposals

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36. Sec. 20 of the Estate Duty Act, 1953.

37. See the First Report of the Committee on Subordinate Legislation, 1954, p. 3.

38. Jrl. of Parliamentary Information, Vol II No. 2 p. 223 and Rule 322.

for delegating legislative powers to subordinate authorities.<sup>39</sup> In the absence of such a memorandum members of the House were not in a position to know how the power in regard to making of rules, regulations etc. would be exercised by the authority concerned.

The omission to append a memorandum in case of Bills containing provisions for delegation of legislative power was brought to the notice of Government and the Ministry of Law agreed to comply with the Rules in future. The Ministry also informed that an attempt was being made to cover the memorandum in respect of the pending Bills then in 1954. There were then eleven pending Bills containing proposals for delegating legislative power.

It is a common complaint, starting from Lord Hewart, that the habit of executive is to make all efforts to oust the authority of the Courts. The Committee has expressed its feeling that the provision pertaining to the jurisdiction of the Courts is a substantive one and should more appropriately be provided in the Act itself.<sup>40</sup> Further, the wording of the rule is sometimes so wide that it may lead to abuse of exercise of power. It has been the earnest opinion that it is not in keeping with the structure of the powers of Courts by rules made by a subordinate authority. It is the fundamental duty of the Courts to see that the law and the rules made thereunder are being followed by the competent authorities in a proper manner. In case it is necessary to oust the jurisdiction of Courts with regard to some technical defects or routine matters there should be a clear authority from

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39. The explanatory memorandum re : delegated legislation accompanying the Transfer of Evacuee Deposits Bill 1954 was the first memorandum appended by Government to a Bill under the rule. See the Report of the Committee on Subordinate Legislation submitted on 17.3. 1954.

40. This matter was considered in connection with the examination of Rule 6A of the Cinematograph (Censorship) Rules, 1951 by SRD-85 of 1953, it provided a saving clause (6A)—“No act or proceeding of the Board shall be called in question on the ground merely of the existence of any vacancy in or defect in the constitution of the Board ” The Committee held (on 25.3.54) that it was an “Omnibus clause ”

Parliament itself to that effect. It is, therefore, necessary that such proposals should be brought before the House and included in the appropriate Acts after full opportunities have been given to the House to discuss the matter and to arrive at a considered decision. It is beyond the limits of authority of the rule-making powers to oust the jurisdiction of the courts by inserting such provisions in the rules. If this were allowed, there would be transgression of the limits of the rule-making power of the executive authority without any check by the Courts of Law. The Committee indicated that this should be borne in mind by the rule-making authorities.<sup>41</sup>

Thus in regard to the provisions,<sup>42</sup> that "no Court shall take cognisance of any offence punishable under these rules, unless upon complaint made in writing by an officer empowered by the State Government in this behalf within six months of the date on which the said offence is alleged to have been committed", and that "no Court inferior to that of a Presidency Magistrate or a Magistrate of the 1st Class shall try any offence punishable under these Rules" the Committee felt<sup>43</sup> that "the provision as to which Court should take cognisance" was not matter "to be provided in the Rules" and should more properly be dealt with in an Act of Parliament.

In case where the Act does not provide for notifications is used by Government regarding changes in the levy of duties, the Committee insists that, it is desirable that such notifications should be invariably laid on the Table of the House and while doing so, the Government should specify the nature of change together with the reasons therefor so that the House may, if necessary, raise a discussion on it.<sup>44</sup>

41. The Ministry of Information & Broadcasting who were apprised of the views of the Committee, had stated that Government would bring forward an amending legislation and in fact unamended the Rules.

42. Sec. 55 & 56 of the Mineral Concession Rules, 1949 framed under Sec. 5 of the Mines and Minerals (Regulation & Development) Act, 1948.

43. On 11th May, 1954. See the minutes of the meeting of the Committee on that day.

44. Coffee Marketing Expansion Act, 1942. It has not been provided in the Act that notifications issued by Government regarding changes in the levy of duties should be laid on the Table of the House.

**Table — 2**  
( The inter-session period excepted )

Sl. No.	No of Order	Description of Order.	Date of publication in Gazette.	Date of laying on the Table.	Period which elapsed between the two dates.
1.	SRO 1904 of 1953	Amendment to the Indian Aircraft Rules, 1937.	13. 9.52	17.11.53	Over 1 year
2.	MII 155 (24) 2	Amendments to Mineral Concession Rules, 1949.	12.11.49	11. 9.53	Nearly 4 years
3.	MII 155 (24)	— do —	19.11.49	11. 9.53	— do —
4.	MII 155 (89)	— do —	13. 5.50	11. 9.53	Over 3 years
5.	SRO 133 of 50	Amendments to Petroleum Concession Rules, 1949.	10. 6.50	23. 6.53	Over 3 years
6.	SRO 1701 of 53	Delimitation Commission Final Order No. 2.	15. 9.53	18.11.53	Over 2 months
7.	SRO 32 of 53	Amendment to the Ministers' ( Advance for Motor Car ) Rules, 1952.	2. 1.53	21. 4.53	Over 2 months

One disquieting feature regarding issue of the Statutory orders by Government was the enormous delay in most cases in placing them on the table of the House. The above table, taken as a sample case, would indicate how some of the important rules were not laid on the Table of the House in time. In some cases, the delay had been over a year.<sup>45</sup>

It has been observed by the Committee that it should not ordinarily be necessary for Government to take more than 7 days after the publication of the Rules in the Gazette to lay them on the Table, and that the Rules should be laid on the Table of the House within a period of 15 days after their publication in the Gazette, if the House is not then in session, the Rules should be laid on the Table "as soon as may be" (but within 15 days) after the commencement of the following session.<sup>46</sup> Earlier the Committee prescribed two different periods, 7 and 30 days respectively in two different reports.<sup>47</sup>

In this connection, the Committee examined whether it was desirable to impose any time-limit within which Rules should be framed under an Act. When asked by the Committee to give its view, the Government said that they were not in favour of fixing any such time-limit. It was pointed out by the Government that Rules were framed as soon as possible when any purpose of the Act should not be carried out properly without Rules and further that in certain cases it might not be necessary to frame Rules immediately because in the nature of things Rules could be needed only after the actual working of the Act had made them necessary.<sup>48</sup>

The Committee while appreciating the views of the Government, regretted to note that there had been several instances where the Rules were not framed even though the Rules were

45. Source : Report of the Committee on Subordinate Legislation, Second Report in 1954.

46. Ibid.

47. Second Report, 1954 and Sixth Report, 1954.

48. 13th December, 1957.

for proper administration of the Acts.<sup>49</sup> The Committee emphasised that ordinarily Rules should be framed under an Act within a reasonable period after the commencement of the Act. In this regard, the Committee directed that the Lok Sabha Secretariat might keep a watch and if no Rules were framed within a period of six months from the date of the commencement of an Act, enquiry might be made to the Ministry concerned as to the reasons for not framing any Rules and the matter brought to the notice of the Committee.

When it was found that the Government agency tried to assume taxing power through the rule-making power,<sup>50</sup> the Committee took serious objection to this tendency and held<sup>51</sup> that if any taxation was sought to be imposed, it should be done in the Act itself and not by Rules. In exceptional cases, the extraordinary power of taxation should be given to the Government only in regard to specific articles, which should be exhaustively stated in the schedule to the Act.

One of the points made out by Lord Hewart was that the people are often caught unware by the Rules. The assumption that people know the Rules, is proved otherwise. It is thus very essential to give publicity to Statutory Rules and Orders all over India in such a way that the public is aware of them and understand them properly. The Committee made the following recommendations in this connection :

- (i) While making each Rule and Order and before its publication, the Central Government should decide whether it is of concern or importance to the general public.
- (ii) Advance copies of all Rules and Orders which are of concern or importance to the general public should be sent to the State Government concerned for arranging wide publicity in their States by means of Gazette publication and press communiques.

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49. Minutes of Fifteenth Sitting held on 3.3.1959.

50. SRO 491 of 1954 re : Estate Duty (Controlled Companies) Rules, 1953 under Sec. 30 of the Estate Duty Act, 1953.

51. On 17th March, 1954.

It has been the experience that the House does not get a clear idea during the debates of the full implications of the rule-making powers and the manner in which Government would use them. The Speaker suggested<sup>52</sup> that the Committee should decide before a Bill came up for debate as to which member of the Committee would concentrate on this aspect of the question and explain to the House. Thus the principle of division of labour could be usefully adopted. This would perhaps help the members of Parliament to appreciate the effects of the Rules under discussion in the Parliament.

The Committee has, out of its awareness of the responsibility, recommended that whenever there are extensive amendments to any Rules, the Rules should be reprinted.

In report of Rules affecting the civil service, the Committee seems to have shown some interest to protect the members of the service from any injustice. For instance, a Rule provides that if an officer is transferred from one cadre to another in public interest, his position in the gradation list of the cadre to which he is transferred shall be determined by the Central Government on an ad hoc basis.<sup>53</sup> The Committee felt that in order to prevent injustice to anybody, it was better if the Union Public Service Commission was consulted before determining the new position of the transferred officer. This recommendation reveals how the Committee sometimes goes out of way to direct and recommend to procedure to be followed in Rule-making. It is perhaps outside the scope of the Committee to discuss what should be the procedure in a particular case. What body or agency is to be consulted before a rule is made should be left to the executive. The Committee need not interfere in this matter.

Another instance may be taken to show how the Committee goes out of the way to suggest a policy. The Committee, like many other persons, has expressed its own views on

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52. On 7.12.1954. Appendix I of the Report May, 1955, p. 15.

53. I.A.S. & I.P.S. (Regulation of Seniority) Rules, 1954.

Rules relating to All India Services.<sup>54</sup> The Committee did not approve of the idea of civil servants contesting local election especially when the civic elections in this country were mostly run on political lines. The Committee suggested that Government might make provisions for the nomination of an Officer to a local body but in no case should officers be allowed to contest elections to such bodies.

Certain Acts provide that the rules to be made thereunder shall be made after previous publication. This means that rules are published in the first instance in draft form inviting public comments thereon. The rules are then finalised in the light of public comments received. But experience shows that the executive pays only a lip service to such requirements, and as the following cases show practically no time is allowed to the public for sending their comments : <sup>55</sup>

Table—3

Sl. No.	No. of Order.	Draft published on.	Last date to submit comments.	Date on which Gazette containing draft was available
1.	SRO 2068 of 1955	24.9.55	30.9.55	1.10.55
2.	SRO 2081 of 1955	24.9.55	1.10.55	1.10.55
3.	SRO 2084 of 1955	24.9.55	1.10.55	1.10.55

The Committee has expressed its concern over this and held the view that when the Acts gave a right to the public to send their comments on certain draft rules, it was only reasonable that sufficient time should be given them to study the draft and send their comments, before the draft was finalised. The Committee prescribed that a period of not less than 30 clear days, exclusive of the time taken in publishing the drafts

54. Ministry of Home Affairs ; the A I Service (conduct) Rules, 1954. Rule 4 (4) (iii). Under this rule an officer of the Services can, with the permission of the Government, offer himself as a candidate for election to a local authority.

55. Source : Sixth Report, p. 37.

in the Gazette and despatching the Gazette copies to various parts of the country, should be given to the public to send their comments on such drafts.<sup>56</sup>

In respect of some recommendations the concerned department of Government had intimated that there were difficulties in complying with the recommendations and had expressed its inability to accept them. This case arose out of the consideration of a proviso to a Rule<sup>57</sup> of the Central Excise Rules, 1944. The proviso declared that "if any goods are lost by theft, duty shall be chargeable on all such losses". Whereas previously excise duty on goods in a warehouse lost or destroyed by unavoidable accident could be remitted by the Collector of Excise in his discretion, this proviso declared that duty shall be chargeable on goods lost by theft. The Committee pursued the matter since its second report.<sup>58</sup> It recommended that "it would not be fair" to impose duty on the lost goods and "the rule should provide for the foregoing of duty in such cases."

After receiving the intimation of the Ministry expressing its inability to accept the recommendation, the Committee at their subsequent sitting examined the representatives of the Ministry, who agreed to examine the further suggestion of the Committee for deletion of said proviso. The Ministry then deleted the said proviso.<sup>59</sup> Thus, the way the Committee handled the matter with the arrogant Central Excise authorities is really commendable and has created confidence in every body's mind that the Committee is doing its job very well and is always anxious and vigilant to protect the people and the Parliament against the "New Despotism"

In matters of language used in the rules, the Committee did not hesitate to draw the attention of the Ministry concerned to change it. In one instance, a rule was expressed in a single sentence running into 164 words,<sup>60</sup> and consequently it was

56. Paragraph 34 of the 6th Report.

57. S. R. O. 416 of 1953. Rule 147 of the Central Excise Rules, 1944.

58. 29th September, 1954 presented by the Chairman Shri H. V. Pataskar.

59. 10th December, 1955.

60. Rule 13 of the Estate Duty Rules.

not easy to follow. The Ministry of Finance, to whom a reference was made, appreciated the point and redrafted the rule.

It may be noted here that in India there is no general statute<sup>61</sup> like the Statutory Instruments Act, 1946 of U.K., requiring the publication of Statutory Rules and Orders. Instead, such a requirement is incorporated in each Act which delegates rule-making power to the Government. Then Rules are published in the Gazette and put to sale to the public. In the case of important Acts the Ministries bring out manuals which contain all the Rules made under these Acts, e.g. Income Tax Manual, Election Manual, and Central Excise Manual etc. Apart from this there is no other official publication which makes readily available the following information regarding Statutory Rules and Orders to the public :

(i) What amendments are made from time to time in the Schedules to various Acts ; and where such amendments could be found ;

(ii) Whether a particular rule is still in operation ; if so, whether it has been amended subsequently and if so where such amendments could be found ;

(iii) Whether any rules have been framed at all under the Act.

It was felt that there should be some annual publication of Statutory Instruments for the convenience of the public. The Ministry of Law has taken action to bring out such a publication.<sup>62</sup>

It has been the experience that sometimes without the old rules being repealed or abrogated, new rules have been published and given effect to. This oversight of the Ministry has been properly checked by the Committee. In one such case, the Ministry stated that the earlier rules were superseded by subsequent rules but due to oversight necessary provision

61. Minutes of the Committee on Subordinate Legislation, Eighth Sitting, 26.2.1958.

62. See para 51 of the Third Report (Second Lok Sabha) of the Committee on Subordinate Legislation presented on 2nd May, 1958.

for their repeal was not made in the later rules ; and subsequently the earlier rules were repealed.<sup>63</sup>

## VI

It is necessary to examine how far the Committee has been effective in its work. Table 4 in the next page taken as a sample case, demonstrates how effective the Committee is !<sup>64</sup>

This table covers the period from 1954 to September, 1959. It may be seen that during the life-time of the Second Lok Sabha the recommendations were more effective. Since it was a new innovation of Parliamentary Control over delegated legislation, the formative period sometimes witnessed a little disappointment. The increasing assertion of power and continued vigilance of the Committee have contributed to the growth of a happy tradition of "Ministry's yielding" to the recommendations of the Committee. The Committee having power to summon anyone, interrogate on any point any number of times and call for explanation from the Departments, could properly harness the "New despotism" hitherto unbridled.

The Speaker of Lok Sabha has expressed his satisfaction with the useful work that the Committee has done so far.<sup>65</sup> The Committee has in fact summoned all the senior officers of the Departments whose rules were considered by it from time to time and has sometimes compelled them to give effect to the recommendations made by the Committee for instance, in the case of the amendments to the Displaced Persons (Compensation and Rehabilitation) Rules, 1955 which increased the rates of fees payable in respect of appeals and applications under various sections of the parent Act, the Committee recommended that "the levy of fees as laid down by Rule 122

63. G. S. R. 633 of 1958. The All India Institute of Med. Sc. Rules, 1958.

64. Source : Different Reports of the Committee on Subordinate Legislation published till September, 1959.

65. Appendix I of the Report of the Committee on Subordinate Legislation submitted in May, 1955. p. 15.

**Table 4**  
**Recommendations of the Committee and Actions Taken.**

Sl. No.	Number of the Report	Number of recommendations made by the Committee	Number of recommendations accepted so far by Government)	Number not accepted & still being pursued	Number of cases where the Committee had been satisfied
1	2	3	4	5	6
1.	1st, 2nd, 3rd & 4th Report, First Lok Sabha.	12	9	1	2
2.	5th & 6th Report, First Lok Sabha.	12	9	1	2
3.	1st Report, 2nd Lok Sabha	18	17	1	—
4.	2nd Report, 2nd Lok Sabha	4	2	1	1
5.	3rd Report, 2nd Lok Sabha.	5	4	1	—
6.	4th Report, 2nd Lok Sabha	3	3	—	—
7.	5th Report, 2nd Lok Sabha	7	6	1	—
8.	6th Report, 2nd Lok Sabha.	4	4	—	—

of the Original Rules did not seem to be authorised by any express provision in the parent Act and the increase in the rates of fees Re 1/- & Rs. 2/- to Rs. 15/- & Rs. 20/- respectively appeared to be high." The Ministry of Rehabilitation in their reply sought to justify the levy of fees but the Committee insisted that if the Government considered it necessary to levy fees the Act should be amended accordingly. The Government subsequently got the Act amended. The procedure of discussion, clause by clause of the Rules, laid on the Table or not, of course takes much time of the Committee, but the Committee has successfully discharged its responsibilities during the last several years.

A Chairman of the Committee for two successive years, Shri N. C. Chatterjee, expressed his satisfaction of the activities of the Committee.<sup>66</sup> He said that the Committee examined many Bills and Statutory orders and pointed out where legislation had gone beyond the limit of rule-making authority. In some respects, he added, the Indian Parliament had made progressive innovation. The Speaker had appointed a member of the opposition ( Shri N. C. Chatterjee, himself ) as the Chairman of the Committee. This was a healthy innovation and he was glad to say that the Committee had functioned entirely free from the control of any of the Ministries. The members of the Committee acted in a business-like manner and were absolutely free from any party whip and they never approached any problem actuated by party spirit. As a matter of fact, he said, the Committee functioned very satisfactorily as a business Committee charged with the responsible duty of checking and eliminating the chance of possible transgression of authority prescribed by Parliament. Matters were decided by general consensus of opinion of members present, and the Chairman was spared the necessity of taking any votes. The Committee has been particularly interested in insisting on the compliance of the rule that all subordinate legislation must be placed on the Table of the House, and every dereliction has been promptly censured.

66. N. C. Chatterjee, *op. cit.*, p. 13.

What is of special interest to note, however, is that the Committee functioned well notwithstanding several lapses on the part of its individual members as the following tables would show. It seems to be a case of collective efficiency inspite of individual indifference.

The following table taken as a sample case, would show the frequency of the meetings to discuss the different rules submitted to it and the number of members attending each sitting.

Table 5

1958		1959	
Meetings held on	No. of members attended	Meetings held on	No. of members attended
26. 2.1958	5	3. 3.1959	6
26. 3.1958	9	16. 4.1959	6
28. 4.1958	4	30. 4.1959	5
10.10.1958	6	11. 8.1959	7
25.11.1958	4	28. 8.1959	7
12.12.1958	5	4.10.1959	4
17.12.1958	7		

The above table makes it clear that the attendance is rather poor every time. The following table again taken as a sample case gives a rough indication of individual attendance.

Table 6

Individual attendance (Second Lok Sabha)<sup>67</sup>

Names of the members		1958	1959
1.	Sardar Hukum Singh	7	6
2.	Phani Gopal Sen	4	1
3.	Ajit Singh Sarhadi	3	4
4.	K. S. Ramaswamy	1	4
5.	Sinhasan Singh	4	4
6.	Jitendra Nath Lahiri	1	1
7.	Bahadur Singh	5	2
8.	T. N. Viswanathan Reddy	5	0
9.	Aurobindo Ghosal	5	1
10.	J. M. Mohamed Inanm	1	2
11.	A. Krishnaswami	0	4
12.	Brajaraj Singh	2	0
13.	Thakur Das Malhotra	1	—
14.	K. B. Malvia	1	1
15.	T. C. N. Menon.	2	0

## VII.

The increasing volume of rules made under the enabling Acts may provoke one to suggest instead that the duration of the session of the Parliament should be extended and if possible made whole-time as in the case of the judiciary and executive organs of the Government. This suggestion raises two questions :

(i) Even if the term of the session is made longer than what it is, can the Parliament discuss all the provisions to be made in the Bill making further rule-making unnecessary ?

67. Parliamentary Committee . Summary of Work, 1958-59, Lok Sabha Secretariat, New Delhi.

Total number of meetings held 7 in 1958 and 6 in 1959.

(ii) Can a collective body and representative body have the patience to work like the other public institutions ?

To take the second question first, it may be seen that there are different members belonging to different age-groups in Lok Sabha. Can the old people do justice to their work if asked to sit for more time every day ? The M.Ps. in different age-groups are shown in the table below.<sup>68</sup>

**Table 7**  
Age distribution of M. Ps ( Lok Sabha )

Age Group	No. of members	Age Group	No. of members
25 — 30	28	50 — 55	93
30 — 35	54	55 — 60	47
35 — 40	58	60 — 65	29
40 — 45	68	65 — 70	10
45 — 50	74	70 — 75	1

The table above shows that the age of the members would not allow any increase in the duration of the sittings or session. Moreover, in a welfare state like ours addicted to planning it would be difficult to depend upon Parliament to discuss, debate and decide on all issues relating to a law because planned economy demands quick action and more executive leadership.

In the second place, membership of a legislature is not a whole-time job nor do we pay them adequately. As the table below indicates, members belong to various occupations demanding their attention equally. The problem cannot be solved merely by paying them more ; it is a temporary job and

<sup>68</sup> Source : First Lok Sabha. This is more or less the same in the second Lok Sabha : Who is Who of Lok Sabha, 1957. See also I.P. No. 10 Lok Sabha Sectt. p. 1, and Second Lok Sabha, activities and achievements, 1957-62, Lok Sabha Secretariat, New Delhi, p. 8

members will have to fall back upon their professions some time or the other. Moreover, the very duties of a representative would expect them to spend a part of their time in their constituencies - they are after all a liaison between the people and Government.

Now we come back to the first question : can matters improve at all if we extend the sessions ? The answer again is in the negative, and for various reasons. In the first place, it may be seen that the nature of law is becoming more and more technical and the qualifications of members of Parliament given below<sup>69</sup> do not suggest that they would be able to cope with the complexities of modern legislation—it is a question of quality but not merely of quantity.

**Table 8**  
Distribution of members by qualification  
(Lok Sabha members party-wise)

1	Congress		Communist		P S P etc.		Remarks
	No	%	No.	%	No	%	
2	3	4	5	6	7		
Graduated Abroad.	28	8	3	13	1	5	p.c. refers to total.
Graduated in India.	185	55	10	43	15	71	
I. A. or I.Sc.	49	15	4	17	2	10	
Matriculates.	43	13	5	22	—	—	
M E.	7	2	—	—	—	—	
L. P.	5	1	—	—	2	10	
Religious Education.	14	4	—	—	1	5	
Private Education.	4	1	1	4	—	—	

- NOTE—(1) Number of M.Ps. giving information was 335.  
 (2) Here Hindu Mahasabha, other minor parties and Independents have been left out.  
 (3) Only major parties have been taken into consideration.  
 (4) The tendency depicted in the table is almost repeated.

This table may be supplemented by the following one which would indicate the nature of occupation of majority of members, which also brings us to the same conclusion as above.

Table 9

Occupation of Legislators.<sup>70</sup>

Sl No.	Prior occupations of the members of Lok Sabha.	No. of members	P. C. to total	Remarks
1.	Lawyers.	153	35.6	1. Total - 432
2.	Cultivators, Land-holders and Zamindars.	97	22.4	
3.	Traders & Industrialists.	52	12.0	2. Period — 1951-52
4.	Medical Practitioners.	21	4.9	
5.	Journalists & Writers.	45	10.4	3. Particulars of only 432 M.Ps. could be gathered.
6.	Teachers & Educationalists.	43	9.9	
7.	Civil & Military service.	16	3.7	
8.	Rulers class (Ex-Princes).	5	1.1	

The following chart shows what it costs to the tax-payers to maintain the forum of representative democracy in India. Besides the direct expenditure on the sittings, printing of the agenda etc., there are other incidental and ancillary expenditure on the Members, of the departments etc. To answer one question, the departments spend quite a substantial amount. The table below includes the Salary, T.A., D.A., expenses on Parliamentary Delegations<sup>71</sup> etc.

70. Source : Lok Sabha Secretariat, I P. No 10, p 3 See also, Second Lok Sabha, activities and achievements, op cit., p. 9

71. Source : Lok Sabha Secretariat, I P No. 10, p. 5. See also Second Lok Sabha, activities and achievements, op. cit., p 10

Table 10

(Statement showing the expenditure incurred on Members of Lok Sabha during the years 1952-53 to 1956-57)

No.	Year	Expenditure Rs.	Sittings held.	Remarks.
1.	1952-53	37,96,818	123	From the 1st
2.	1953-54	38,89,783	137	sitting of the 1st
3.	1954-55	46,00,620	137	Lok Sabha to
4.	1955-56	52,03,214	139	the last session.
5.	1956-57	43,89,087	151	

The huge cost would not justify any extension of the duration of the session and the sittings. Moreover experience everywhere suggests that the Legislatures depend on the executive for guidance. Even in the United States where the Congress has the exclusive power to legislate and spend any time on it as it pleases, the practice of delegation of legislative power has been increasing. Again, the present practice is serving the purpose all right and there is no reason why it should not be allowed to continue.

Thus subordinate legislation is both necessary and inevitable. It has come to stay. There is no question of going back. But the question is how to ensure effective control over such subordinate legislation by Parliament. It has been established in this chapter that the machinery employed by Lok Sabha in this regard is working well. However, one or two improvements may be suggested here.

One thing to be pointed out here is that the House has the power to approve or disapprove a Rule made in pursuance of an enabling provision of an Act. Therefore, all rules are laid on the Table of the House. It has neither the time nor capacity to go into the intricacies of the Rules laid on the Table. Since it has a Committee to scrutinise and control the subordinate legislations, there would be no harm if the Committee is given the power to either approve or disapprove the Rules. This

would make the Committee stronger and at the same time relieve the House to a large extent.

There is no constitutional bar at this stage to delegate this power to the Committee. An Act may be passed making the Committee a statutory one and declaring that the decision of the Committee shall be construed as if it is the decision of the House in matters of subordinate legislation. If this is not suitable, the Rules of the House can be suitably amended entrusting the conclusive power to accord approval or disapproval. If this is done then the procedure cannot be questioned in any court of law.<sup>72</sup>

Again each Bill which provides for the rule-making power should contain the clause 'subject to the approval of the Committee or Joint Committee on Subordinate Legislation'.

Since the Committee is to give its opinion on legal matters it needs an expert on its staff. This expert would assist the members of the Committee in examining the explanations or memoranda submitted by the departments in defence of their Rules. The business of the expert would also be to brief the chairman and members of the Committee before they take evidences from the departmental officials. The Attorney-General of India may be employed for the purpose. It should be obligatory for him to attend all the meetings of the Committee and render such service as he may be called upon from time to time. This arrangement would enhance the status of the Committee, strengthen its hands and improve the quality of its work.

72. Art. 118 and 122, Constitution of India.

## CHAPTER VII

### ESTIMATES COMMITTEE

Effective financial control involves scrutiny of the details of estimates and accounts. The Houses of Parliament, constituted as they are, though anxious to exercise rigid and reasonable control, are not suitable organs for going into such minute details. Neither House has the time or facilities for detailed examination of such complex and technical documents. Accordingly it has been felt necessary to delegate these duties, subject to their final control, to Committees, entrusted with the task of examining whether or how a process is being performed, and "by their conduct of this task they serve to provide the means of some sort of control over the carrying out of the process".<sup>1</sup>

For this purpose, the British House of Commons employs two Committees. First comes the Public Accounts Committee which has been appointed to scrutinise the accounts though it has extended its functions beyond this "formality" of mere scrutiny of expenditure to questioning "its wisdom, faithfulness and economy".<sup>2</sup> But there is a drawback. All that the Committee does is a post-mortem examination of accounts. Its basis and starting point are the accounts.

People began to realise that there must be a change of approach to the problem, because experience of mounting expenditure was leading the House to question the efficacy of its control.<sup>3</sup>

The result was the National Expenditure Committee of 1902-3 which was directed "to enquire whether any plan can be advantageously adopted for enabling the House, by Select Committee or otherwise, more effectively to make an examina-

1. K. C. Wheare, *Government by Committee*, 1955, p. 204.

2. Gibson Bowles, *Evidence before National Expenditure Committee, 1902-3*, House of Commons, Q. 1017.

3. Basil Chubb, *The Control of Public Expenditure*, 1952, p. 87.

tion not involving criticisms of policy, into the details of National Expenditure". The Committee recommended that an Estimates Committee might be appointed to examine one class of estimates each year.<sup>4</sup> It was argued before the Committee that the Public Accounts Committee could not go into the merit of expenditure. It could no doubt, ensure the legality of the expenditure and efficiency of the spending authorities but not economy. Many members of the House of Commons expressed the views that the Public Accounts Committee had limited functions. Winston Churchill analysed the problem thus : "financial questions were divided into three types— (1) Policy, (2) merit, and (3) audit. The first was for the cabinet, the third for the Public Accounts Committee, but between these two, there was a lacuna or middle ground, which, for want of a better term, he called the merit of expenditure, and upon that no control adequately or effectively operated. Some machinery was necessary to take up this part of the financial business".<sup>5</sup> But it was widely recognised among the officials that such an agency would impair the department's freedom of action and the control at this stage would be delicate. If consideration of the merits of expenditure is overlooked, the members of Parliament felt, the control would be incomplete and ineffective. The incidence of such a consideration would fall on the executive and force them to practise economy and avoid wastage. Economy in expenditure would lead to efficiency of administration. Economy and efficiency are always linked together, hand in hand. Economy of machinery and economy of staff, coupled always with efficiency.<sup>6</sup> Again it was argued that it must be the job of the Government and the administration themselves to achieve and maintain efficiency and that the Parliament should address itself only to review progress or lack of it, to judge results achieved and it should not do the job itself. Those who were enthusiastic to have a separate machinery of the House of Commons

4. H. C. Debates, 17.4.1912, Col. 393.

5. H. C. Debates, 26.7.1905, Col. 1443.

6. H. C. Debates, 17.4.1912, Col. 388.

to control the expenditure and estimates thereof asserted that there was an obvious gap which must be filled by the House.<sup>7</sup> The time to effect economy is, no doubt, before the expenditure is incurred, best at the estimates stage. To check, therefore, unwise spending, the House should appoint a Committee of its own before sanctioning the demands for grants.

This idea, however, was not received by the Government without misgivings. They were quite reluctant to surrender the power of examining the "future and current expenditure to a Committee because it seemed to them to threaten the responsibility of ministers, a responsibility which was thought to be to the House alone".<sup>8</sup>

Thus the Estimates Committee was established in 1912, but in 1917 it was substituted by a National Expenditure Committee which was appointed to make recommendations in regard to the system of control within the departments and by the Treasury. In 1920, when normal conditions prevailed after the war, the National Expenditure Committee was directed to examine, *inter alia*, the procedure of the House in relation to Supply.<sup>9</sup> Though the Government repeated their old arguments that the job of securing efficiency was an internal affair best left entirely to the Departments and Treasury, the Committee recommended the revival of the use of the old Estimates Committee.

The Estimates Committee ultimately was entrusted with the power to examine such of the estimates as it thought fit and to suggest economies consistent with policy. The Committee's functions included, besides examining a portion of the estimates, reviewing the duties and activities of the departments chosen. But the Estimates Committee found itself quite unable to make full and efficient review because, among other drawbacks, it enjoyed no professional aid.

After the Second World War, the scope of the Estimates

7. Mr Thomas Lough and Sir Winston Churchill were the leading Spokesmen on the need for an Estimates Committee in 1912.

8. Chubb, *op. cit.*, p. 68.

9. H. C. 121 of 1918.

Committee was widened. Its term of reference now extend to examining "such of the Estimates as may seem fit to the Committee, to suggest the form in which the Estimates shall be presented and to report what, if any, economies consistent with the policy implied in those Estimates, may be effected therein". The term "Estimates" is taken to mean the "current expenditure" or "current activities".

The Committee as at present constituted has the duties to make inquiries on three grounds ; first, where public interest and doubts have arisen ; secondly, where some items in the published estimates stand out and cry for investigation ; and finally, when one inquiry leads to another. Its duties include also reviewing the organisation, working, and financial administration of Departments and other bodies spending public money. It also conducts investigation of current problems, some confined to one department, others concerning more than one. Again, in the words of Sir Gilbert Campion, "they generally inquire into definite happenings and criticise after the event, though as a result of the lessons they have learnt they may make suggestions for the future."<sup>10</sup> Besides, as a Committee to scrutinise and control, the Estimates Committee extends its functions to consider the merits of the expenditure as well.

The reports of the Committee furnish the House with basic facts, are useful to the Government and act as a stimulus to the Administration.<sup>11</sup> Their reports receive attention of the Press and public—spirited persons. Thus it may be observed that the Estimates Committee and its reports provide an additional check—most useful one—on the estimates and current expenditure of the Government. Its evidences, inquiry and reports have resulted, without impairing the ministerial responsibility, in providing the overworked House with the most natural means of obtaining information and advice. Thus in

10. Sir Gilbert Campion, the then Clerk of the House of Commons wrote this in 1946 in his memorandum to the Select Committee on Procedure.

11. Mr Noel-Baker, H.C. Debates, 29.7.1946, Col. 540.

England the Estimates Committee has come to stay as a useful machinery to control expenditure. Such a machinery to control expenditure has been adopted in India also.

## II

The Estimates Committee of Lok Sabha was first constituted in April, 1950. Till then there was at the Centre only a Standing Finance Committee composed of members of Legislature with the Finance Minister as its Chairman. "It was not responsible to the House"<sup>12</sup> and it had very limited functions. It was scrutinising proposals (1) involving expenditure on a "new service"; (2) for the expansion of existing services involving an expenditure of over Rs. 5 lakhs non-recurring and/or over Rs. 1 lakh recurring per annum ; (3) for supplementary grants occasioned by the adoption of substantially new schemes; and (4) any other proposal or policy-matter referred to the Committee for advice. For example, the necessity or otherwise of a building costing more than Rs.5 lakhs proposed to be put up by the Ministry of Finance was required to be considered by the Standing Finance Committee before its inclusion in the Budget. The proposals were submitted to this Committee just before the presentation of the Budget and passed by them without much effective discussion and could not be re-opened except on the initiative of the Government.<sup>13</sup> It had no opportunity to scrutinise the estimates. It was also not submitting any report to the house but advised the Government on the proposals of expenditure brought before it. The minutes of the meetings were, however, printed and copies were supplied to members of the Legislature. It was essentially an advisory body, brought into existence to associate non-official element with the administration at a time when the Government was not responsible to the legislature. It was "a

12. (Miscellaneous Papers) Pers. B. No. 13 (Volume II) Lok Sabha Secretariat, October, 1957, pp. 2-3.

13. Ibid.

Government Committee.”<sup>14</sup> In the words of the Simon Commission, the Committee was designed to serve mainly “to familiarise the elected members with the process of administration and to make the relations between the Executive and Legislature more intimate”.<sup>15</sup>

It was, therefore, felt necessary to have a stronger Committee in its place. The question of setting up of an Estimates Committee in India was first suggested as early as in 1937 by way of a question in the Central Assembly,<sup>16</sup> but it was negatived by the Government. The question was again raised in April, 1938 in the Central Assembly. This time the Government agreed and the then Finance Member (Sir James Grigg) gave the Assembly an outline of the scheme the Government had in mind, which was, however, not accepted by the House.<sup>17</sup> Its main features were that it would have fifteen non-official members, but the subjects to be examined by the Committee were to be selected by the Government. The Committee was, of course, to suggest any changes in the form in which the estimates might be presented to the Legislature and to report what, if any, economies consistent with the policy implied in those Estimates may be effected therein but purely in an advisory capacity. This proposal differed from the Committee of the British House of Commons in that it sought to impose official control through a Government official, who should be the Secretary, and the selection of subjects was also to be decided not by the Committee itself but by the Finance Department. “No wonder the scheme was rejected by the House because they did not like the Committee to work in an official atmosphere.”<sup>18</sup>

Again in 1939, a member of the Public Accounts Committee

14. W H Morris-Jones *Parliament in India*, p. 298 In this book the author has given a history of the Estimates Committee.

15. Simon Commission Report, Vol. I, p. 369

16. On 25th August, 1937

17. L. A. Debates 1938, Vol. III, pp. 2865-7. This was done by way of an amendment to a motion for the appointment of a Retrenchment Committee.

18. *Journal of Parliamentary Information*, Vol. VI, No. 2, p. 77.

pressed for the appointment of an Estimates Committee. The Chairman of the Public Accounts Committee, Sir Jeremy Raiseman, explained that such a proposal had already been circulated to the various party leaders and that no further action was possible until their reactions to the proposal were known. The different political parties wanted more powers for the Committee which the Government was not in a position to concede. Again on the 14th March, 1944 during the debate on a Cut Motion in the Central Legislative Assembly the then Finance Member agreed in principle to the appointment of an Estimates Committee, but said that he could not agree to its functioning immediately.<sup>19</sup> Thus it may be seen that the non-official members of the old Central Assembly were regularly voicing their demand for a Committee with sufficient powers to examine the Estimates of the Government, but the Government of the day always shelved the proposal on one pretext or another.

After Independence the question of appointing an Estimates Committee was repeatedly raised. Following a memorandum by the Secretary of the Constituent Assembly of India (Legislative) which was strongly commended by the then Speaker Shri G. V. Mavalankar,<sup>20</sup> Dr. John Mathai, the then Finance Minister, moved for the constitution of an Estimates Committee based on the practice in force in the United Kingdom, and the Committee came into existence in April, 1950. At the same time, the Standing Finance Committee was also continuing till the first general elections in 1952. During the period of the Provisional Parliament (1950-52) therefore, the House had three Finance Committees : Public Accounts, Standing Finance and Estimates. It was not surprising that on occasions it was felt that there was some confusion of duties ; each was working in its own way without any effective co-ordination.<sup>21</sup>

19. L. A Debates 1944, Vol II, p. 1072.

20. Vide the memorandum by Shri M. N. Kaul and notes thereon by Shri G. V. Mavalankar, published by the Lok Sabha Secretariat.

21. Morris-Jones, op. cit., pp. 297-98.

Since the year 1952, the Estimates Committee and Public Accounts Committee are working as the two Finance Committees of the House whose scope of functions, method of appointment and other ancillary matters have been clearly defined in the Rules of Procedure and Conduct of Business in Lok Sabha.

The Estimates Committee consists of not more than thirty members who are elected by Lok Sabha every year from amongst its members according to the principle of proportional representation by means of the single transferable vote.<sup>22</sup> The Rules prohibit ministers from being members of the Committee.<sup>23</sup> This provision is a complete departure from the provision for the Standing Finance Committee where the Finance Minister was the Chairman of the Committee. In the United Kingdom, there is no such rule, but by convention ministers are not appointed members of the Committee. Thus, in India the Committee is kept as far as possible free from official control.<sup>24</sup>

The Estimates Committee is appointed on a motion for its election for the following year, moved by the Chairman of the Committee some time (usually a fortnight) before the end of the term of the current Committee. At the commencement of a newly elected House, the first motion is made by a minister.<sup>25</sup> The term of office of the members of the Committee is one year. But it would be an advantage, the Speaker once suggested, that at least a two-year term should be given to every member of the Committee to enable him to do justice to his work on the ground that, "a member takes six months to settle down to his work and within another six months his membership of the Committee may come to an end."<sup>26</sup>

22. Rule 311 (1)

23. For instances, Shri Ahmed Mohiuddin ceased to be a member of the Estimates Committee on his appointment as Deputy Minister with effect from 2nd April, 1958. See EC No 88.

24. The address of the Speaker on 17th July, 1957 while inaugurating the Estimates Committee of the Second Lok Sabha.

25. Journal of Parliamentary Information, Vol VI, No. 2, p. 77.

26. The inaugural address of Shri M Ananthasayanam Ayyangar, Speaker, Lok Sabha on the 17th July, 1957.

The following table given as a sample case, would show the wisdom behind the Speaker's suggestion :<sup>27</sup>

Table 1

Sl. No.	Members of the Estimates Committee	1956-57	1957-58	1958-59
1.	Total number of members in the Estimates Committee.	30	30	30
2.	Number of members having one year of experience.	15	3	20
3.	Percentage of 2 to 1	50%	10%	66%
4.	Number of members having two years experience	1	2	3
5.	Percentage of 4 to 1	3 3%	6 6%	10%

The above table would indicate that the Estimates Committee consists of about fifty percent of the members having one year's experience to their credit. The marked fall in such percentage of the old members in the year 1957-58 is mainly due to the formation of the Second Lok Sabha. It may be seen from item 5 in the above table that the Estimates Committee in 1958-59 had only 10% of the members who had served the Committee for more than two years earlier. This is not an encouraging figure.

Rule 258 provides that the Chairman of a Committee shall be appointed by the Speaker from amongst the member of the Committee. If the Deputy Speaker is a member of Committee, he shall be appointed automatically Chairman of the Committee. If the Chairman is for any reason unable to act, the

27. Prepared from the Minutes of the Estimates Committee of the years 1955, 1956, 1957 and 1958

Speaker may appoint another Chairman in his place. If the Chairman is absent from any sitting, the Committee shall choose another member to act as Chairman for that sitting. It may be noted that while the Chairman is nominated as in other Committees, the members of the Committee are elected by the House.

Another important feature of the Estimates Committee is that unlike the Public Accounts Committee, the members of Rajya Sabha are not associated with it on the ground that, as the Speaker explained, "under the Constitution the Rajya Sabha has no right to interfere with or cut down any item of the Budget". This reasoning seems to be based on an insufficient appreciation of the role of Rajya Sabha in financial matters. Since it is required to share responsibility in authorising expenditure<sup>28</sup>, it should be associated with the different processes of discussions of the Budget. What is more important is that the Estimates Committee has expanded its scope of activities to examining the administrative organisation and procedure of administration. It now works somewhat as an investigation-Committee on the pattern of the U. S. Committees. Moreover, reports of the Estimates Committee are not presented to Lok Sabha before the presentation of the Budget. The Committee takes its own time to examine and report. It would not be a violent idea to associate some members of the Rajya Sabha with the Estimates Committee. They can go with the Committee from place to place and get information on those things under examination. It may be also that the conflicts that arise between the Houses could be avoided if some members of Rajya Sabha are associated with the Estimates Committee<sup>29</sup>.

28. Article 109 (2)

29. The Estimates Committee may consist of 30 members, 20 from Lok Sabha and 10 from Rajya Sabha, elected by them or nominated by the respective Presiding Officers.

## III

The powers and functions of the Estimates Committee may now be examined. The functions of the Committee have been laid down in the Rules of Procedure and Directions by the Speaker issued from time to time, while in the United Kingdom, the main terms of the Committee are stated in the motion and their amplitude and scope have been determined by conventions and practices from time to time. The Rules here provide that the Committee shall examine in general, such of the estimates as may seem to it fit or as are specifically referred to it by the House or the Speaker<sup>30</sup>. In general the functions of the Committee are :

- “(a) to report what economies, improvements in organisation, efficiency or administrative reform, consistent with the policy underlying the estimates, may be effected ;
- (b) to suggest alternative policies in order to bring about efficiency and economy in administration ;
- (c) to examine whether the money is well laid out within the limits of the policy implied in the estimates ; and
- (d) to suggest the form in which the estimates shall be presented to Parliament”.

The Committee has thus a wider scope than its counterpart in the U. K. inasmuch as it is empowered to suggest alternative policies where it considers necessary<sup>31</sup>.

It may be asked why our Committee should have this power while it does not exist in England ?

The Estimates Committee does the work of scrutinising

30. Rule 310.

31. In the case of the British Estimates Committee, its scope is limited to the examination of estimates consistent with the policy laid down by Parliament. It has no right to suggest any alternative to a policy however unreasonable it might be, though sometimes it quietly enters into that domain also which is seriously resisted by the cabinet.

in each year matters relating to particular departments of Government. The function of the Committee is to suggest "economy consistent with efficiency". Thus, efficient working of a service sanctioned by Parliament is to be ensured by the Committee. It keeps a watch on execution just to satisfy itself that such execution is within the limits of the policy laid down and is carried on in the best manner possible.

In the nature of things, a policy as to whether Government may undertake a particular project or not is decided by Parliament as a whole and the Committee's function is to see how economy can be effected therein. It is true that, as the Speaker once observed, "their function is not to lay down any policy" but "to see that the policy (laid down by Parliament) is carried out".<sup>32</sup>

But there is a leak ; the very function of the Committee is leading it into the realms of policy. It is a financial Committee to see that a policy is carried out, as again the Speaker himself has said, "not independently or divorced from its financial implications". Its judgements on waste and extravagance are bound to lead to judgements upon the wisdom of the policy that has led to the expenditure. Suppose the financial implications are not working well, then, as the Speaker concluded, "when the policy is leading to waste", the Committee is "entitled to comment in a suitable way" ; and the most "suitable way" naturally is to examine "whether revision of the policy is necessary in the light of the results, and it does it"<sup>33</sup>. Thus it has greater power in regard to policy adopted by the Government in discharge of its executive functions<sup>34</sup> than appears to be on paper.

The Committee might suggest a cheaper or economical method than the one adopted by Government. It is for the Parliament to take such decisions as it likes on such sugges-

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32 Inaugural address of Sri M. A. Ayyangar (Speaker) at the meeting of the Estimates Committee on 7.5.1959

33 First Parliament : A Souvenir, p. 76

34. Speaker's Direction No. 98(2)

tions. It follows therefore that the question of suggesting any deviation in the policy comes only incidentally and not always. The Estimates Committee thus can enter into the domain of policy and then say that a particular policy is wrong.

The Estimates Committee in India has thus been very liberal in interpreting its terms of reference very widely to cover any policy matter on the pretext of economy and efficiency. In 1958 the Estimates Committee recommended certain things criticising Government policy. It evoked great discussion in Government circles and in the press as well. The Committee earlier considered the question whether cabinet Ministers should function as members of The Planning Commission<sup>35</sup>. The Committee recommended against it on the ground of its technical character and independence from ministerial interference and that the very basis for the constitution of a separate Planning Commission, as "an organisation free from the burden of the day to day administration but in constant touch with the Government at the highest policy level" is affected. This report of the Estimates Committee is a symbolic one which demonstrates the extent of the encroachment of the Committee on the Executive Government<sup>36</sup>. The Committee in another report even went to the extent of recommending a particular price-policy to be followed in respect of the Departmental catering on Railways. The Government agreed with its recommendation and asked the Railway Administration to implement it.<sup>36A</sup>

The Estimates Committee in India does not hesitate to recommend fundamental changes even in administrative policy matters. For instance, the Committee once considered that

35 E. C. 1957—58, 21st Report, Second Lok Sabha, para 19, p. 7.

36. In England the Cabinet is more firm. For example, when in 1941 the Estimates Committee recommended the creation of a new post of Parliamentary Secretary exclusively concerned with civil service questions, the Government simply replied that fundamental changes in the Machinery of the Government were matters for ministerial decision.

(i) 1941-42 NEC report (UK) 16th Report, para 109.

(ii) Reply published in the 7th Report, 1942-43 (NEC), p. 15.

36A. E. C. 30th Report, Second Lok Sabha, pp. 33-34.

the arrangement of having the Cabinet Secretary to function also as Secretary of the Planning Commission was not conducive to efficiency and recommended that there should be a whole-time Secretary for the Planning Commission<sup>37</sup>.

The Committee has also gone to the extent of recommending that the post of adviser (Transport) should be abolished as it was not necessary to have a whole-time adviser to advise the Planning Commission on transport problems only. The Committee has also recommended what the Planning Commission should not do : the Committee was of the view that "central direction and co-ordination of public co-operation activities of the various agencies" and the sanction of grant-in-aid to those agencies were executive functions, and recommended that the Planning Commission should be divested of this responsibility.

The Committee in their Second Report<sup>38</sup> made certain recommendations in regard to the re-organisation of the Government of India. Some of these recommendations have been implemented, some are being implemented and some are in the process of examination and implementation. The Committee recommended that in order to avoid unnecessary delay in the day-do-day performance of the normal functions of a Ministry greater financial powers in the field of minor items of expenditure should be devolved on the Heads of the Ministries and Departments. The functions of the Ministry of Finance should be specified in more definite terms than they were (then) with a view to ensuring that there were no unnecessary inter-departmental consultations and that the responsibility should be properly distributed and shared by both the spending Ministries and the Ministry of Finance. The Committee had also gone to the extent of suggesting that for junior officers a pool of stenographers or steno-typists should be created at the scale of one steno-typist or steno-grapher for

37. E. C. 1957-58, 21st Report, Second Lok Sabha, para 25.

38. Second Report was presented to the House on the 9th February, 1951.

every two or three officers. The Government accepted these suggestions<sup>39</sup>. Again the Committee recommended that the method of disposal of work in the Secretariat should be so revised that as many papers as would be possible could be disposed of by the officers themselves at each level. The "underlying suggestion" of the recommendations of the Committee was accepted by the Government and necessary action was taken to implement the recommendations. The Committee in its Ninth Report held that good work and sense of public duty among the highly conscientious officers should be suitably recognised. The Government agreed with the observation of the Committee and emphasis has, in fact, been laid on merit in making promotions to all ranks of posts<sup>40</sup>. The Committee also recommended to separate Audit from Accounting which was accepted in principle by the Government<sup>41</sup>.

#### IV

Let us now discuss how the Estimates Committee works and what procedure it follows. As in the case of the other Committees, the general Rules are laid down by the House. The Rules provide that the Committee may continue the examination of the estimates from time to time throughout the financial year and report to the House as its examination proceeds.<sup>42</sup> It shall not be incumbent on the Committee to examine the entire estimates of any one year. The demands of grants may be finally voted notwithstanding the fact that the Committee has made no report. It may be observed in this connection that at the beginning of each financial year, the Estimates Committee makes a selection of subjects concerning any part of the estimates of a Ministry or Ministries to be examined by them during the year under review. The Ministry

39. Statement laid on the Table on the 18th September, 1951.

40. Statement laid on the Table on the 30th September, 1954.

41. Estimates Committee, 9th Report, 1st Lok Sabha, pp. 26-27.

42. Rule 312.

or Ministries whose estimates are proposed to be examined by the Committee are asked in writing by the Lok Sabha Secretariat to furnish necessary material in support of the estimates for the information of the Committee. The form in which the material is to be furnished to the Committee is as follows.<sup>43</sup>

1. The organisation of the Ministry and its attached and subordinate offices. The information should be shown in the form of a diagram supported by short explanatory notes ;

2. The functions of the Ministry and its attached and subordinate offices ;

3. Broad details on which the estimates are based ;

4. Volume of work in the Ministry and its attached and subordinate offices covering the period of estimates, giving, for the purpose of comparison, corresponding figures of the past three years ;

5. Schemes or projects which the Ministry has undertaken : the name and details of the scheme, the estimates of expenditure, period within which it is likely to be completed, yield if any, and progress made to date ;

6. Actual expenditure incurred under each sub-head of the estimates during the preceding three years ;

7. Reasons for variations, if any, between the actuals of the past years and the current estimates ;

8. Reports, if any, issued by the Ministry on its working ; and

9. Any other information that the Committee may call for, or the Ministry may think it necessary or proper to give.

As soon as the papers are received in the Lok Sabha Secretariat they are circulated to the members of the Committee. After going through these papers they may frame questions on which further information is required by them.<sup>44</sup>

In the case of the Public Accounts Committee, both in

43. First Parliament : A Souvenir, p. 76.

44. The members do not have any preliminary paper ready for consideration. They prepare the questions themselves.

England and India the Auditor-General's reports provide the starting-points, and the information he has is more complete than that of any other witness. The result of the labours of his entire department for a whole year is available to the members. Though he is technically a witness, he has become much more than that; he influences the proceedings. He attends every meeting at which evidence is taken and also, when required, at deliberative meetings. He aids the members by supplying papers and furnishing information quickly. Behind the scenes his influence is still more great. Before the meetings of the Committee he confers with the Chairman and briefs him. He suggests as in the case of England the line of inquiry and possible questions and he also indicates sometimes the answers the Chairman might reasonably expect to receive.<sup>45</sup>

The absence of such an adviser makes the work of the Estimates Committee difficult. In the United Kingdom there was once a demand for the appointment of an "Examiner of Estimates", which was never conceded. Such is the case with our Estimates Committee. The members of the Committee pick up such items of Estimates where they suspect or apprehend the cost is very high. While selecting the subjects, they have no advice from any expert. They entirely depend upon their own experience and wisdom.

The Chairman also defines the tasks to be done. It is indeed his views on the functions and procedure of the estimates which govern mostly the activities of the Committee. It falls to him to choose the lines of inquiry and method of attack. He selects items for the agenda. The Committee fares or fails depending upon the method and object of attack determined by the Chairman. He initiates, leads and does whatever his experience and wisdom could prompt. It is therefore the personality of the Chairman which could to some extent compensate for the absence of an expert guide.

Our Estimates Committee normally works, as in the United

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45 W. I. Jennings, Parliament, p. 332.

Kingdom, through a number of sub-Committees. The Rules do not provide for such sub-Committees, but they are appointed according to the direction by the Speaker. There is one sub-Committee which is invariably appointed on Defence, details of which are discussed later on.

The sub-Committees take evidence and formulate their reports which are then considered by the Whole Committee. The sub-Committees have the powers of the undivided Committee to examine any matters that may be referred to them, and the reports of such sub-Committees shall be deemed to be the reports of the Whole Committee, if they are approved at sittings of the Whole Committee.

In addition to the sub-Committee on estimates of the Ministry of Defence, certain other ad hoc sub-Committees are appointed from time to time. These ad hoc sub-Committees may be called study groups as well. But the word "sub-Committee" has been used in the Minutes of the Estimates Committee.<sup>46</sup> Of course, these sub-Committees are appointed for specific purpose and they are not normally expected to continue unless otherwise required. Thus these numbers vary from year to year. For instance, in 1955-56 there were 12 sub-Committees.<sup>47</sup> Extensive use of these sub-Committees

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46. E. C. 1955-56, Minutes Vol. V, No. 6, p. 70, See also E. C. 1957-58, Minutes ( Second Lok Sabha ) Vol. 1, No. 3, Vol. 1, No. 1.

47. The following sub-Committees were constituted in 1955-56.

1. Sub-Committee 'A'—General Administration, Stores, Fuel, Statistics and Finance.
2. Sub-Committee 'B'—Works and Projects, Signal Engineering, Electrical Engineering and Civil Engineering.
3. Sub-Committee 'C'—Planning, Welfare, Amenities and Medical.
4. Sub-Committee 'D'—Representations from chambers of commerce etc. in connection with the examination of the Ministry of Railways.
5. Sub-Committee 'E'—Operations, Claims and Rates.
6. Sub-Committee 'F'—Action taken by the Government on the recommendations of some of the previous reports of the Estimates Committee.
7. Sub-Committee for examination of Railway Budget for 1956-57. (This was a Special sub-Committee)

has been made by the Committee. Of particular significance is the sub-Committee "to ensure the implementation of the recommendations of the previous Reports". It was asked to review those recommendations in the light of the replies received from the Ministries concerned.

The Chairman of the Estimates Committee in authorised to appoint members to serve on the various sub-Committees after giving consideration to preferences of members to serve on particular sub-Committees.

The programme for each sub-Committee is chalked out and officers are attached to each sub-Committee so that arrangements might be made by them, for instance for visiting certain places etc. Individual members also submit their own suggestions for the efficient and effective working of the sub-Committees. After the sub-Committees are formed they may proceed on tours and visit various places and centres. With the concurrence of the Committee, the Chairman nominates conveners for the various sub-Committees. They have got the right even to go to the offices to find out how exactly they are working. They make on the spot study of the various items. They can get materials from the Ministries and examine them. On the basis of the information thus collected, questionnaires are framed and sent to the Ministries concerned for their written replies, which, when received, are also circulated to the members of the Committee. Thus the study-notes,

- 8 Sub-Committee 'G'—(I) Examination of the question of Budgetary Reforms and (II) continuous examination of Railway Budget.
9. Sub-Committee 'H'—(I) Examination of the action taken by the Government on the recommendations of the Estimates Committee (excluding Railways), (II) Transport Ministry—Tourism.
10. Sub-Committee 'J'—(I) Continuous examination of the General Budget, and (II) examination of the Estimates relating to community projects.
11. Sub-Committee 'K'—(I) Examination of the Estimates relating to Airlines corporations, and (II) Transport Ministry, Highways and River Navigation.
12. Sub-Committee 'L'—(I) Examination of the estimates relating to Defence Ministry, and (II) Transport Ministry—shipping.

replies received from the different Ministries and impressions obtained during the tours, constitute the basis on which members could take evidence on the subject. A sub-Committee, while on tour, may study subjects other than those allotted to it because all subjects come up before the Whole Committee for discussion. The members take notes during the tours and that at the end of the tours they are submitted in the form of study-notes. Then they meet together in the Whole Committee and exchange notes (or each sub-Committee may meet separately and decide on its reports).<sup>48</sup> Then the Committee as a whole takes evidence and comes to its conclusions. It may then entrust the work of formulating the first draft of a report to the concerned sub-Committee. The draft of the sub-Committee's report is submitted to the Chairman of the Committee who may accept it or make such further changes in it as he might deem necessary. The draft report is circulated to the members of the Whole Committee as the Chairman's report and it is then considered in detail by the Whole Committee. In the United Kingdom the sub-Committees take evidence and formulate their reports which are then considered by the Whole Committee.

It is open to the Committee to call the representatives of the Ministry concerned at its convenience for examination.<sup>49</sup> But a Minister shall not be called before the Committee either to give evidence or for consultation. The Chairman according to the direction of the Speaker may, however, when considered necessary but after its deliberations are concluded, have an informal talk with a Minister, the estimates of whose Ministry were under consideration by the Committee in order to apprise him of :

(a) any matters of policy laid down by a Ministry with which the Committee does not fully agree ; and

48 It is rather unusual for a sub-Committee to meet separately before the main Committee is acquainted with all the facts they have collected. Such meetings are held when draft reports are made.

49 Speaker's Directions No. 99 (1).

(b) any matters of a secret and confidential nature which the Committee would not like to bring on record in their report.

The Committee may "reconsider its conclusions in the light of such talks but shall not otherwise pursue further any of the matters with the minister after they are brought to the notice of the minister concerned by the Chairman".<sup>50</sup>

When the representatives of the various Ministries are called to give evidence in support of the projects or otherwise, the Secretary or Head of the Department and the accredited representative of the Ministry of Finance meet the Committee to furnish such information as the Committee may ask for. The Committee may also invite suitable non-official witnesses. Sometimes the Committee invites even Members of Parliament to give evidence as non-official experts.<sup>50 1</sup>

## V

There is, as earlier said, one sub-Committee of the Estimates Committee which requires special treatment. It is the sub-Committee on Defence Estimates. This sub-Committee has been constituted under the Speaker's direction.<sup>51</sup>

The Chairman of the Estimates Committee determines in advance the activities of the Defence organisation in which the sub-Committee may concentrate. The Chairman of the Estimates Committee also regulates as he may consider necessary, the procedure and organisation of the work of the sub-Committee. The sub-Committee has the power to call for information and any records from anybody or hear the officials or take any other evidence connected with the estimates under examination.

50. Ibid, Clause (3) In the United Kingdom also the minister is not asked to give evidence.

50A. Thus J. B. Kripalani, M. P. gave evidence on 14th December, 1957 on the subject of Basic Education because he was an expert on the subject being a close associate of Gandhiji.

51. Speaker's Direction No. 101.

The Speaker has directed that the usual conventions regarding "Secret" documents should be observed by members of the sub-Committee.<sup>52</sup> The discretion whether to reveal the contents of "top secret" documents to the members is vested in the Chairman of the Committee, who shall consider any submission that may be made in this regard by the Ministry of Defence, and in case of doubt, he may place the matter before the Speaker for his guidance.

When the sub-Committee on the Ministry of Defence completes its examination of the estimates of the said Ministry, it may arrive at conclusions and prepare such reports as they consider necessary. The Chairman places the reports of the sub-Committee before the Whole Committee for the consideration of the Committee. If some portions of the report of the sub-Committee are considered by the Chairman to deal with confidential matters, which it is not advisable to make public in the interest of security, he may withhold it from the Whole Committee and forward to the Speaker for his guidance. The Chairman is to make available to the Whole Committee such of the evidences and papers seen by the sub-Committee as he thinks fit. If the reports of the sub-Committee as are placed before the Whole Committee is approved by the Whole Committee, it is deemed to be the report of the Whole Committee. Those portions of the report which are forwarded by the Chairman to the Speaker are not treated as a report of the Committee but are treated as a special and ad hoc report from the Chairman to the Speaker. The Speaker is to transmit such ad hoc reports to the Government in such manner as he thinks fit and when he does so, he may inform the House of the fact of having sent the report to the Government. The procedure discussed above is a special procedure adopted in regard to the examination of the Ministry of Defence. This special procedure is followed because there are certain peculiarities here for reasons of security, secret nature of materials etc.

## VI

Let us now come back to the reports of the Estimates Committee. After evidence is taken, the Committee or a sub-Committee as stated earlier, prepares the draft report. Since the Committee is appointed to scrutinise the finances of the Government, it particularly mentions the activities of the Ministries concerned on the following :

- (i) Whether most modern and economical methods have been employed ;
- (ii) Whether persons of requisite calibre on proper wages with necessary amenities and in right numbers, have been put on the job ;
- (iii) Whether duplication, delays and defective contracts have been avoided ;
- (iv) Whether right consultation has preceded the execution of the job ; and
- (v) Whether the production is worth the money spent on it.

The Committee follows a particular pattern when it makes its recommendations. Since 1958 it has been making its recommendations at the end of each final report, in an appendix, under the following classified heads.<sup>53</sup>

- (a) Recommendation for improving the organisation and working of the Department ;
- (b) Recommendations for effecting economy—an analysis of more important recommendations directed towards economy is also given. Where possible, money value is also computed ;
- (c) Miscellaneous or general recommendations.

After the report is adopted in the Committee a copy of it is sent to the Ministry or Department concerned for factual verification. A copy is also sent to the Financial Adviser

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53. In the United Kingdom the reports do not contain any classification of recommendations. In other respects the examination of the estimates is conducted on the same lines as in India.

## PARLIAMENTARY COMMITTEES IN INDIA

concerned for a similar purpose. *11 The idea is that the statements made in the report should be correct in all respects* so that there is no dispute between the Committee and the Ministry as to the facts later on. The Ministry while communicating corrections of facts sometimes do give their comments on the recommendations contained in the report. The Committee may also consider the comments of the Ministry and if any new facts have been brought to their attention even at that stage, the Committee may review their recommendations and amend or modify the earlier conclusions. The Ministries are asked to keep the draft a secret till it is presented to the House. Thus it may be seen that the draft report is finalised after verification by the Ministry concerned. Then a copy of the final report is submitted to the Speaker before presentation to the House for the reason that the Speaker can give instructions from time to time with respect to the proceedings of all Committees of Parliament. It is not to interfere with the working of the Committee that Speaker wants an advance copy, but he wants to keep in touch with the working of the Committee through these reports. It may be observed here that in the United Kingdom the draft is not sent to the Ministry for verification. Their Committee finalises its report on the basis of the evidence given before it and the draft report is not shown to anybody before it is presented to the House. After the report is presented to the House, the Ministries are at liberty to give their minutes or comments on the reports and present them to the House. It has happened in the United Kingdom in some cases that Government disputed the facts contained in the report of the Estimates Committee.<sup>54</sup> It is however a practice which does not appear

54. S. L. Shakhder, Joint Secretary, has explained this. See Journal of Parliamentary Information, Vol VI, No. 2 (1960), P. 85.

55. The Estimates Committee presented to the House of Commons on the 10th December, 1954, 7th Report on the Foreign Service. On the 13th December, 1954, in answer to a question the Foreign Secretary referred to certain errors in the Report. The Government subsequently presented a white paper. (H. C. Debates, Vol. 536, Cols. 682-3.)

to be commendable. The Committee of the House should confide in the Ministry concerned. It is not a Committee to criticise only. In that case the co-operation of the Government officials may not be forthcoming which is an absolute need of the Committee, specially because it has been formed in "a background of hostility".<sup>56</sup> However, in India, the Estimates Committee of Lok Sabha has followed a sound practice in sending the draft report of the Committee for factual verification and comments thereon. The report is then printed and presented to the House by the Chairman of the Estimates Committee. Once the report is presented to the House, it becomes a public document.

Since the report comprises a precis of the evidence, followed by comments conclusions, and recommendations, and since finally a brief summary of recommendations is added for quick reference, it has been useful in educating the House (and the public also) on the work, virtues, and faults of the administration. There is no debate on the report in the House, yet it is presumed to have been discussed and accepted.<sup>57</sup> As to the question why the Speaker does not allow discussion, the answer has been given by the Speaker himself.<sup>58</sup> He said :

"We, as a Committee here, represent all sections and shades of opinion in the House. We take decisions, we cross-examine the witnesses from the various Ministries. Ultimately, before presenting the report to Parliament, we send such reports for factual verification and the opinion is all our own. The ministers are entitled to hold their own views, but ultimately our opinion ought to prevail. On the other hand, if after the presentation of the report

56. Chubb, op. cit , Chapter III.

57. It is the decision of the Speaker but not a rule of the House. It may be noted here that both the Speakers so far, Mr. Mavalankar and Mr. Ayyangar have not allowed a regular debate on the report of the Estimates Committee.

58. Speaker's Address to the Members of the Estimates Committee on 17th July, 1957.

we allow discussion on the report, the minister who may not see eye to eye with the Committee will gather support on some general proposition on political grounds and on such an issue being raised in an acute form the usefulness of the report may be nullified. We wanted to make the recommendations of the Committee as good as obligatory upon the Ministry and on the Government to adopt. Therefore we have evolved this procedure."

Legally and constitutionally the reports of the Estimates Committee are not binding on the House or on the Government. They are recommendations which the Government may accept or may feel bound not to accept because of various difficulties. Since the estimates are voted by Parliament in the shape of authorisations not exceeding certain upper limits, it is always open to Government to spend less and to accept the recommendations of the Estimates Committee and effect economy. But the convention has been established that the "recommendations of the Committee are as good as obligatory upon the Ministry or the Government to adopt". In any case, the views of the Estimates Committee would have been reflected in the next year's estimates and the House can always draw attention to the previous reports and call for explanations from the Minister concerned as to why the estimates have not been prepared after taking into account the recommendations of the Estimates Committee. In practice, therefore, there is sufficient time for the Estimates Committee to investigate thoroughly and make considered recommendations and for Government to examine the recommendations of the Committee with care.

There has been a convention in India that whatever might be the contents and differences among the members, the report is that of the Whole Committee. If some members do not agree with any particular view-point and if they so desire, the differences are noted in the Minutes that are circulated or laid on the Table. If any Member of the House wants, he can certainly look into the minutes and find out what exactly took place.

Another feature of the report is that there is no record of

votes in favour or against a decision in the Committee. The Committee does not work, we are told, on party lines and therefore there is a spirit of compromise and give and take ; divergent opinions, if any, are not pressed to division, there is no whip in the Committee, nor any kind of briefing or any attempt to canvass is allowed.<sup>59</sup> Thus the report of the Committee is free from political pressures and opinions.

In the United Kindom the evidence given before the Committee is presented to the House along with the report although the Committee is not obliged to report all the evidence tendered before it. In India, on the other hand, the evidence is not separately presented to the House nor is it printed or made available to anybody separately.<sup>60</sup> It forms part of the records of the Committee. Consequently, minutes indicate the gist of discussions that took place in the Committee. Such minutes are impersonal and they may only indicate the salient features of a particular point of view or an observation. When a non-official witness tenders evidence, the opinion expressed by him is recorded as the "witness replied". In the case of officials of a Ministry, it is recorded that "the representative stated".<sup>61</sup>

## VII

After the report has been presented to Lok Sabha, the Ministry or the Department concerned is to take action on the various recommendations contained therein. The Speaker has directed that Government shall, as early as possible, after the presentation of the report of the Estimates Committee, furnish the Committee, in the first instance, with a statement showing action taken on the recommendations contained in the report. The statement shall contain the views of Government on all

59. Vide the Speaker's address at the Valedictory sitting of the Estimates Committee (1955-60) held on April 29, 1960, and on May 4, 1961.

60. S. L. Shukdher, Jt Secy, Lok Sabha Secretariat, Two Estimates Committees, *Journal of Parliamentary Information*, Vol VI, No. 2, P. 84.

61. Estimates Committee (1957-58) Minutes of November 7, 1957.

the recommendations including those which are accepted by Government.<sup>62</sup>

The recommendations of the Estimates Committee are considered by the Ministries concerned. It takes time. After consideration they send their replies to the Estimates Committee. Their replies include whether they have implemented the recommendations or they face difficulties in implementing any one of them.

When these replies are received, the Committee examines them through one sub-Committee which is invariably set up to pursue the implementation of the recommendations of the Committee. It may be that some of the replies might not satisfy the sub-Committee ; then there is some protracted correspondence with the Ministries concerned. It is enough for the sub-Committee if the Government says that they have accepted the recommendations or that necessary steps are being taken by the Ministry to implement the recommendations. When the replies are received from the Ministries the sub-Committee analyses them.

The sub-Committee goes into every recommendation thoroughly and may sometimes call for the departmental witnesses to amplify the written statement supplied by the Department. The report of the sub-Committee is then placed before the Whole Committee and it is only after the Committee has deliberated on it and approved it, that the final report is presented to the House. Sometimes this process spreads over many years and successive Committees consider the question thus left.<sup>63</sup>

This report consists of four parts :

Part (I) showing the recommendations and suggestions etc. agreed to by the Government and implemented ;

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62 Speaker's Direction No. 102. Till 1957, the replies were laid on the Table of the House in the form of a statement by the Government and the Committee as a whole was then considering such statements and were making reports on the actions taken on the recommendations. Now there is a sub-Committee of the Estimates Committee for the purpose.

63 See Speaker's remarks found in the Minutes of the Estimates Committee, 1957-58, Vol. I, No. 1, p. 98.

Part (II) showing the replies of Government which, though differing from the recommendations, have been accepted by the Committee ;

Part (III) showing cases where the Committee's recommendations are not acceptable to the Government and the replies of the Government are also not acceptable to the Committee ;

Part (IV) showing the recommendations to which final replies of Government have not been received.

After the report is presented to the House, the House can take such further action as it may like.

It may be noted here as stated above that "the Committee's recommendations, from the very inception, have been taken to be binding on the Government."

The Speaker has been very strict in ensuring the implementation of the various recommendations of the Estimates Committee. On the suggestion of Shri Biswanath Das that "it would be better if the concerned minister at the very outset tells the House which recommendations Government had accepted", the Speaker said that the Ministries should include references to implementation of the recommendations of the Estimates Committee in their Annual Reports. The Speaker has directed that the recommendations of the Committee ought to be accepted except where, in the light of subsequent events or other facts, Government thinks that any of the Committee's recommendations require revision. And "the Committee would be too willing to revise their views in the light of the facts put before it."<sup>64</sup> If at any time the Government finds any practical difficulty in implementing a particular recommendation, then the procedure is, as suggested by the Speaker,<sup>65</sup> that the Committee is approached with the particular information which was not available then (when the Committee was considering the issue); and in the light of such new information, if the Committee considered necessary to modify the recommendation, it revises its recommendations.

64. L. S. Deb, Part II, dated 25th July, 1955 Cols. 8389-90.

65. Speaker's Address to the Estimates Committee, Journal of Parliamentary Information, Vol. III, No. 2, pp. 136-37.

So far, this practice or convention has been established. At no time does the Government or the Ministry say : "We are not going to implement the recommendation" ; because the Speaker has made it clear that "the recommendations of the Committee are by convention as good as resolutions of Parliament which are binding upon the Government".<sup>66</sup> If they want to interfere with any particular recommendation or if they want to get it modified, they must invoke the aid of the Chairman of the Estimates Committee to modify the recommendations on account of circumstances which have occurred later or in the light of certain material which could not be made available to the Committee in spite of proper diligence.<sup>67</sup>

The effectiveness of the Committee may be now seen. It could be better assessed if we take some of its reports. In the First Report of the Estimates Committee<sup>68</sup> it recommended that a Committee consisting of the Budget officer of the Government of India, a representative of the Comptroller and Auditor-General and a member of the Estimates Committee be constituted to examine and to report to the Estimates Committee the improvements that could be made in the existing system of presentation of the Budget to the Parliament. Accordingly a sub-Committee under the Chairmanship of Shri Mahabir Tyagi was appointed by Government and it recommended certain reforms.<sup>69</sup> The recommendations were considered by Government and some of them were accepted.<sup>70</sup>

Similarly, in the same report the Committee recommended that the possibility of appointing persons with business

66. Ibid

67. Speaker's Address to the Estimates Committee, JPI, Vol III, No 2 pp 136-137

68. The Report was submitted to Lok Sabha on the 1st December, 1956.

69. The other members were Shri M. V. Rangachari, Joint Secretary, Ministry of Finance and Shri B. N. Sengupta, Accountant-General, Central Revenues.

70. A copy of the report and a copy of the order of the Ministry of Finance L No 1204-B-11/51, dated the 31st January, 1951 setting out the actions taken on the recommendations of the sub-Committee, are given in Appendix I of the 35th Report of the Estimates Committee, 1956-57.

experience as Trade Commissioners should be explored and a suitable cadre formed for the recruitment of such personnel. The Government accepted this recommendation and held that "The Indian Foreign Service is designed to include a sufficient number of the type of officers recommended by the Estimates Committee"<sup>71</sup> Another recommendation of the Committee may be taken. It said that the aircraft spared from American surpluses should be handed over immediately to the Hindusthan Aircraft Factory, and the arrangement with the Tatas terminated forthwith. The Ministry replied that "the arrangement with Tatas has been terminated with effect from 30th November, 1950 and the aircrafts are now in the custody of Director-General of Supply and Disposals. Dakotas are being looked after by Hindusthan Aircraft on his behalf"<sup>72</sup> In another statement on the same question, the Government informed the Committee that "at present there is no unsold Aircraft available from the war surpluses and the aircrafts which were sent for custody and maintenance to Hindusthan Aircraft have been allocated to the Ministry of Defence and are being used by them."<sup>73</sup>

One instance may be taken of a reply of the Government that was not accepted by the Committee. The Committee recommended that Government should consider whether in the case of promotions which take place before the period ordinarily stipulated for such promotions, the pay of an officer in his higher appointment should in appropriate cases and where equitable, be restricted to certain percentage, say, 125 percent of the pay of his previous post.<sup>74</sup> The Government replied at first that the matter was "under examination".<sup>75</sup> Later the Government informed the House that "the matter has been carefully examined and it is agreed in principle that

71. Vide Statement laid on the Table of the House on the 18th September, 1951.

72. Statement laid on the Table on the 8th June, 1951.

73. On the 23rd August, 1956.

74. First Estimates Committee's Report, para No. 108 (ii).

75. Statement laid on the Table on the 8th June, 1951.

some restrictions are needed". The Ministry of Finance informed further that "broadly speaking, the situation which arose after the transfer of power when a number of premature promotions occurred, has practically ceased to exist. In the new cadres and the various service schemes that are now formulated, care has been taken to avoid premature promotions being made"<sup>76</sup> The Committee, however, was not satisfied with this reply. They observed that "The Ministry has been asked to state how in actual practice they ensure that premature promotions are not made. It is not known whether definite rules have been framed prescribing the minimum period a person should serve in a post before being eligible for promotion to a higher post carrying a higher scale of pay, and whether such rules have been framed in respect of each one of the Departments of Government". The Government ultimately framed Rules as per the recommendations of the Committee. Thus, the Committee is very rigid in implementing its recommendations. It has been noticed that the report of the Government on the actions taken on the various recommendations of the Committee is submitted to the Committee from time to time, sometimes involving some delay.

If the following table is examined it may be observed that the first statement of the Government is ordinarily given within seven to eight months of the presentation of the report. The sub-Committee of the Estimates Committee was formed only in 1957 and thereafter the presentation of the report on the implementation of the recommendations has been regular. One noticeable feature is that in the case of the Eighth Report of the Estimates Committee, no recommendation was being pursued further by the Committee.<sup>77</sup> The various recommendations therein are either accepted by the Government or their replies have been accepted by the Committee.

76 Ministry of Finance D O. No 1 EC/53, dated the 9th January, 1953.

77 See the 50th Report 1956-57 E C No 46 Submitted on the 4th March, 1957

The following table taken as a sample case, shows the delay in submitting the reports on the actions, taken by the Government.<sup>78</sup>

No of the Reports	Date of its submission to the House	Date on which Govt first informed the House	Second statement of the Govt.	Date on which report on the actions taken submitted to the House
1	2	3	4	5
1st Report	20.12.50	8. 6.51	18. 9.51	1 12.56
2nd Report	9. 2.51	8. 6.51	18. 9.51 9 7.52	1.12.56
3rd Report	5. 3.51	18 9.51	1. 1.55	1.12 56
4th Report	24. 3.51	8. 6.51	18. 9.51 1. 1.55	21.12.56
5th Report	5. 3.52	19 12.52	25 9.54	2. 3.57
6th Report	25.11.53	22. 5.54	—	3. 3.57
7th Report	12. 5.54	20. 9.55	—	18. 3.57
8th Report	21. 5.54	25 8.54	12. 2.55	4 3.57
9th Report	21. 5.54	30. 9.54	—	21. 3.57
11th Report	29. 9.54	12. 9.55	10 10.55 } 18. 1.56 }	28. 3.57
13th Report	12. 9.55	7.11.55	14. 1.56 } 30 1.56 } 14 2.56 }	27.11.57
14th Report	21. 9.55	31. 1.56	5. 2.57 } 17 4.57 } 11.11.57 }	15. 2.58
15th Report	27. 9.55	10. 2.56	21 3.56 } 31 5.56 } 23. 8.56 }	10 2.58
19th Report	21. 2.56	17.10.56	11. 2.57	18. 4.58
20th Report	29. 4.58	10. 9.58	29. 9.58 } 6 10.58 } 1.11.58 }	28. 4.59

Another important feature of the reports on the actions taken by the Government is that an appendix is added to the report on the analysis of the action taken by Government.

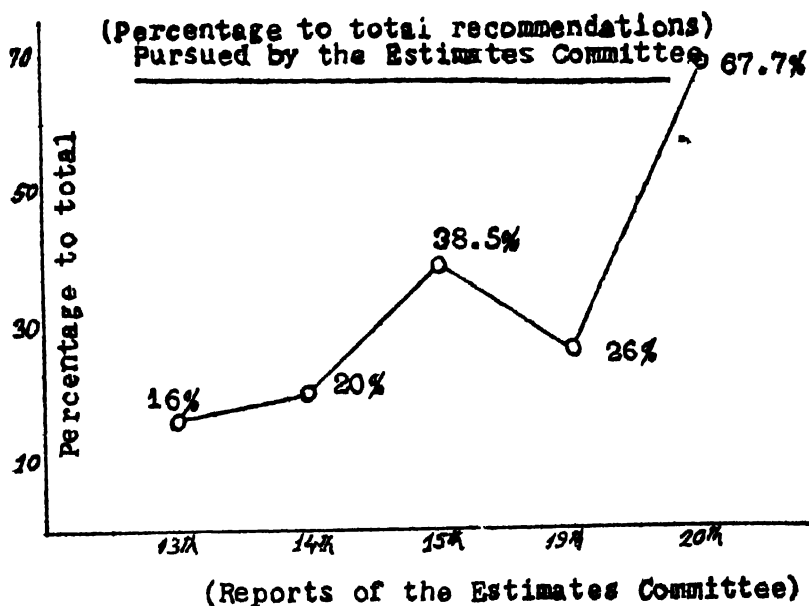
78. Compiled from the different Reports, replies and minutes of the Estimates Committee.

The following table taken as a sample case, would indicate the analysis made in the various Reports.<sup>79</sup>

Sl. No	Analysis	1st Report of 2nd Lok Sabha on 13th Report	2nd Report on 14th Report	3rd Report on 15th Report	8th Report on 19th Report	60th Report on 20th Report
1.	Total no. of recommendations made.	50	40	52	19	34
2.	Recommendations accepted fully by the Government.	20 40%	9 22.5%	18 34.6%	9 47.4%	7 20.6%
3.	Recommendations accepted by the Government partly or with some modifications.	4 8%	9 22.5%	2 4%	2 10.5%	1 2.9%
4.	Recommendations not accepted by the Government but replies in respect of which have been accepted by the Committee.	18 36%	14 35%	12 23%	3 15.8%	3 8.8%
5.	Recommendations not accepted by Government and pursued by the Committee (including those which are still under consideration by Government).	8 16%	8 20%	20 38.5%	5 26.3%	23 67.7%

<sup>79</sup> Prepared from the different reports on the actions taken by the Government on different recommendations made in various reports.

A very distressing feature which a close examination of the above table reveals is that disagreement between the Committee and the Government is gradually increasing. So far as the recommendations of the 13th Report are concerned, 16% of the total recommendations were being pursued, of 14th Report 20%, 15th Report 38.5%, 19th Report 26.3% and 20th Report on land reforms 67.7% of the total recommendations had not been accepted by the Government and those recommendations were being pursued by the Estimates Committee. This increasing disagreement may be illustrated by the following graph.



It is this state of affairs that has led no less a person than the Auditor-General to remark that "the value of the recommendations made by the Committee is declining because the Government do not accept them".<sup>80</sup> While there is some truth in what he says, the recent tendency again is that Government accepts the findings of the Committee in a majority of

80. Address by Shri A. K. Chanda, Auditor-General on "Parliamentary control over national expenditure" to the Members of the Madras Legislative Assembly, (Madras Legislature Information, March, 1959, Vol 1, No. 1.).

cases, as shown in the table above, on the actions taken by the Government presented by the Committee to the House from time to time.<sup>81</sup> Earlier Ministers had always acknowledged the usefulness and influence of the Committee. Thus Shri C. D. Desmukh, the then Finance Minister said—"I look forward to continuing assistance from the labours of the Estimates Committee in securing that within the four corners of the policy laid down by Parliament the moneys authorised to be spent by it are utilised to the best possible advantage without avoidable waste".<sup>82</sup> Shri G. L. Nanda, the then Irrigation Minister while winding up the debate in connection with the Voting of Demands for grants relating to the Ministry of Irrigation and Power paid "a special tribute to the work of the Estimates Committee" and concluded that "their work in totality was exceedingly useful and of great assistance".<sup>83</sup>

The Committee has so far produced very valuable documents on the basis of their study and evidence. Some of the reports are of outstanding merit,<sup>84</sup> and whether implemented by the Government or not, are useful in another way. They are monumental works of an authoritative nature whose study by laymen, academicians and M.Ps. would be amply rewarding. They offer some material of first rate value to research scholars as well.

## VIII

No review of the Committee's work can be complete without specially noticing the Speaker's role. It is largely his part in it that has strengthened the Committee and has given it a

— 81 Joint Secretary, Lok Sabha, Journal of Parliamentary Information, Vol. VI, p. 93

82 On 23rd May, 1952

83 L. S. Deb., dated the 7th April, 1954

84 The report on Budgetary Reform, Planning Commission D. V. C., Community Project Administration, University and Rural Higher Education, Oil and Natural Gas Commission, Oil Refineries, National Archives of India, National Library, Special Education, Organisation of the Ministry of Defence and Services Head Quarters, Organisation of the Department of Revenue—Central Board of Revenue, Administrative, Financial and other Reforms, Reorganisation of the Secretariat and Departments of the Government.

special status. In addition to the regular examination of the Ministries taken up by the Committee, the Speaker may refer from time to time, certain matters arising in the house to the Committee.<sup>85</sup> Very often he inaugurates the Estimates Committee and tells the members what they are intended to do and how should they function.

Again, the Speaker also issues directions from time to time as he may consider necessary for regulating the procedure and organisation of the work of the Estimates Committee. These directions are issued by the Speaker after considering the concrete cases that have been brought to his notice by the Chairman of the Committee. By the rules and directions, the Committee or the Chairman is bound to refer certain matters of procedure to the Speaker for his decision and guidance. This is done to avoid references to the House. The Chairman presents a copy of the draft reports to the Speaker before it is presented to the House.<sup>86</sup> In the United Kingdom the Speaker is not concerned with the day to day functioning of the Committee and therefore no power is exercised by him to give directions to the Committee. The Committee also does not submit any draft to him before its presentation to the House. In India the Speaker has the power to refer ad hoc issues to the Committee for examination and report. A glance at such references shows not only their importance but also that they cover a large field.<sup>87</sup>

The Speaker has the power to order the printing, publication or circulation of the report of the Committee before it is

85. Speaker's Address to the E. C. on the 29th April, 1960.

86. The Speaker's Address to the Estimates Committee (E. C.) on 17th July, 1957.

87. The following are some of the cases which were referred to the Committee :

1. Matter relating to loss in Railway Collieries arising out of discussion on the Railway Demand, 1951.
2. Matter relating to Dandakaranya Scheme arising out of a discussion on a cut motion on the demand of the Ministry of Rehabilitation.
3. Matter relating to shortfall in production at the Bharat Electronics arising out of Supplementaries to questions.

presented to the House, when the House is not in session.<sup>88</sup> Of course, the report is presented to the House in the next session at the first convenient opportunity.

To preserve the importance of the Estimates Committee, the Speaker has directed that no member of the Committee could accept membership in any Government Committee constituted to discuss the same question which is under consideration of the Estimates Committee without his permission. It has been a very effective direction. In the United Kingdom there are no such restrictions on the appointment of members of the Estimates Committee to the Committee appointed by Government for investigation even on the same subject which is under the examination of the Estimates Committee. In India, the Speaker has directed that even the report of the Government Committee should not be published before it is sent to the Estimates Committee for its consideration.<sup>89</sup> The Speaker has tried through these years to preserve the importance of the report of the Estimates Committee lest it should be by-passed by some other report of another Committee going through the same subject.<sup>90</sup>

## IX

Estimates Committee meetings are always well attended. As the Speaker has remarked,<sup>91</sup> "otherwise we will not command the prestige that is necessary".

88 Instances of such reports are (a) 68th Report (First L. S.) on the Ministry of Defence Factories, (b) 45th Report (First Lok Sabha) on the Ministry of Community Development

89. The following reports were made available to the Committee before being presented to Lok Sabha

- (a) Zaidi Committee Report on Land Reclamation Project, 1953 ;
- (b) Rau Committee Report on Damodar Valley Corporation, 1954 ;
- (c) Enquiry Committee on Banaras Hindu University 1957 ; and
- (d) Direct Taxes Administration Enquiry Committee, 1958.

90. Speaker's Address to Estimates Committee on the 17th July, 1957.

91. Speaker's Address to Estimates Committee on the 29th April, 1960.

The following table would indicate the extent of attendance in four consecutive sittings selected at random of five consecutive years.<sup>92</sup>

Attendance of Members. Estimates Committee.

Analysis of attendance	1955	1956	1957	1958	1959
Total number of members.	25	25	30	30	30
1 (Any four consecutive sittings)	14	18	17	21	16
2	9	18	13	18	14
3	8	18	16	18	12
4	12	18	13	23	10

## X

Before we conclude let us turn to some of the important questions on the Estimates Committee.

A question may arise if there is any need to go into any aspect of economy, improvements, efficiency and administrative reforms when the administration itself has some branches to deal with all such matters and when the Ministry of Finance and the Cabinet Secretariat are all devoting a good deal of their time in tackling those issues and solving them to the best of their ability. Is there no clash of jurisdiction? No doubt, the administration, more precisely the executive, has devised all the necessary checks, and counter-checks and placed most

92. Any four consecutive sittings with dates have been taken.

1955—28th sitting, 29th, 30th, 31st sittings, 7th December, 8th, 10th, 20th December, 1955.

1956—18th, 19th, 20th, 21st Jan, 1956.

1957—14th Decr, 16th, 17th, 18th December, 1957.

1958—24th Jan., 25th, 27th, 28th January. 1958.

1959—4th March, 5th, 12th March & 11th April, 1959.

experienced and expert administrators in their charge, and this process is constantly going on in the various Ministries, but still it is found that there exist red-tapism, lack of co-ordination, extreme departmentalism and above all, lack of essential human approach. The role of the Estimates Committee is not that of a "baton-happy policeman", nor that of a "swollen eyed auditor" ; it is something different altogether. It is somewhat comparable to that of a member of the jury who is called upon to pronounce verdict over the most intricate legal case out of his common sense. Similar is the position of the members of the Estimates Committee. Generally all its members are laymen in the subject, without the knowledge of rules and regulations and intricacies of administration, but their basic approach to the issues under examination is one of study and understanding. When the official witnesses and other experts appear before the Committee, the members try to understand from officials, as much as possible, all aspects of the problem and draw their conclusions out of their common judgment.<sup>93</sup> That is why their recommendations may sometimes appear to be square pegs in round holes ; but from the Parliament's point of view it is the best means of exercising control over the administration. Thus the approach of the Estimates Committee, composed of elected members of Lok Sabha representing all sections of the House, is essentially an approach of laymen, and implies a judgment of sound common sense.

The reports of the Estimates Committee yield great influence over the working of the administration. They act as a moral check due to the awareness that every department's activities will come under the searching examination of the Committee. The accountability to Parliament in respect both of the criticism levelled by the Committee and of the recommendations accepted helps to maintain a high standard in administration. The Committee, thus, ensures that the tax-prayer's

93. The meetings of the Financial Committees which bring the Parliamentarians and the officials together, act as catalytic ground in melting away such complexes.

money is laid out properly and efficiently and that the taxpayer gets an adequate return for the taxes paid by him.

It is an education to watch the Estimates Committee at work. On the one side is arrayed the accumulated experience of the senior officers who have dedicated their life to the work under their charge. On the other side are representatives of the people—the real masters—who have no detailed expert knowledge of the subjects under discussion, but who, because of their intimate contact with the people, know at first hand how the various policies and actions pursued by the Executive are affecting the common people. What emerges out of a free and frank exchange of views between these two groups is something which neither side could have evolved on its own. It is a two-way traffic which benefits both the sides<sup>94</sup>. The executives come to know how the people and their representatives are reacting to their various policies and actions. The Parliamentarians on the other side also come to know the hurdles and difficulties that the administrators have to face in their day-to-day work. They, therefore, come to appreciate the problems more intimately and are able to offer constructive suggestions instead of merely criticising the executive. The intimate knowledge of the different aspects of administration gained by the members of the Estimates Committee thus becomes a useful training ground to the members for shouldering ministerial responsibility as and when necessary. That a number of ministers and deputy ministers have been selected from those who had been the members of the Estimates Committee is an indication of its importance<sup>95</sup>.

Another question arises : Is the Estimates Committee quite competent to go into such a variety of subjects of a technical nature and offer advice and criticism ? This question is simple to answer. As has been said earlier, the Estimates Committee is a committee of laymen with strong common sense and they

94 B. G. Meheta, on "Role of the Estimates Committee", First Parliament : A souvenir, pp 8—12.

95. First Parliament : A Souvenir, "Estimates Committee at work" by Shri H. N. Trivedi, Deputy Secretary, Lok Sabha Secretariat, pp. 77—78.

act in the same manner as the Jury assist the Court. Whenever technical matters are discussed or examined the Committee invites official and non-official technical experts to assist it to come to a conclusion. As the ministers being laymen are able to exercise control over the administration the Committee acts in similar manner to perform its task. It may be observed here that some of the reports of the Committee like the "Report on Budgetary reform" are good treatises on the subjects. The assistance of the experts which is taken advantage of has made the Committee to be specialists in its sphere of work.

Another question arises : is it a fact that the Government tolerates the existence of the Committee because its recommendations are on minor matters where the Government does not like to provoke the House ? It is not true at all. The Committee has made some recommendations suggesting fundamental changes in the administration. The report on Budgetary Reform, Administration of Union Territories etc. are cases in point.

Generally speaking the Estimates Committee has been an effective check on the executive. In the absence of a strong opposition in the Indian Parliament, the Estimates Committee has successfully led the Parliament to exercise control over the executive. Since it has the power to call for any person or record from the Government, the Committee exercises the power to influence over the officials. Their effectiveness has been demonstrated in the implementation of its different recommendations. It has become a useful instrument in the hands of the Parliament to maintain the paramountcy of the Parliament over the executive. Yet some improvements may be suggested here :

First comes the appointment of an Examiner of Estimates. It is necessary to have an expert to aid the Estimates Committee because promotion of economy, avoidance of wastage and ensuring of efficiency are the most important functions of the Estimates Committee. If economy and efficiency are to be effected, the organisation and methods of the administrative

departments are to be examined and suitable modifications should be suggested. Investigation of departmental machinery, methods and actions and examinations of cases of waste, examination of contracts on the basis of which the projects have been included in the estimates, consideration of the relations between the Government and industry and the consideration of change in the form, rules and regulations relating to the estimates, require expert assistance and expert knowledge.

Taking a political decision would be much easier if the pros and cons of a matter are placed before it. Somebody must be there with knowledge of administration, industrial accounts, rules and regulation regarding accounting, contracts and other techniques<sup>96</sup>. Without a person with minute acquaintance with routine and complicated procedure of the departmental machinery, the Committee would presumably find difficulties to undertake investigation of the departmental administration for promoting economy and efficiency. It requires a detective type of an official expert to have an intimate inquiry and spade-work inspection<sup>97</sup>. He should be the servant of Parliament with a free hand and the use of whatever statistical and economic help he needs.

If an expert is associated with the Committee to effect economy and efficiency, the members of the Committee shall not roam in the wilderness when the voluminous estimates and the explanatory memoranda are presented to them for examination. The expert will help the Committee to know the real causes of waste.

Waste, of course, cannot be eradicated by examining

96 In England there was a demand to appoint an Examiner of Estimates. Mr. Austin Chamberlain the then Chancellor of Exchequer was unwilling to yield. He was unwilling to have someone who "is to be turned loose like a ferret, to hunt through all the departments on his own and produce whatever extracts from the Departmental papers he thinks fit". See Chubb, *op. cit.*, p 123.

97. Henry Higgs in his lectures on Financial Reform, argued for an independent official, 'Inspector General of Finance', to control estimates on behalf of the House of Commons (Financial Reform, 1924, p. 37). But it did not find support in the Parliament nor from the Treasury.

money figures which are only one way of expressing the cost of action. It results from the inefficient and negligent machinery or officers whose work should be investigated, necessary changes in their personnel, method of work and procedure should be effected. Otherwise a study of mere figures would not land the Committee anywhere. It is therefore necessary to appoint an "Examiner of Estimates" to suggest line of action in connection with the efficiency of administration with the help of the Organisation and Method Division of the Government.

It would be his duty to have close co-operation with the Auditor-General, and the staff of the Auditor-General shall be entrusted with his work. His service should be made free from the control of the executive. In short, his appointment, tenure, salary etc. shall be the same as with the Auditor-General<sup>98</sup>.

It is he who shall be the instrument of the Estimates Committee to collect materials with the help of the Lok Sabha Secretariat on all cases which in his opinion require the attention of the Committee. He should have access to all such records which are accessible to the Auditor-General. If there is any case of waste, extravagance or inefficiency brought out by the Press and the public, it should be his duty to cause investigation on behalf of the Committee and report to it for such action as it deems necessary to take.

Secondly, the Estimates Committee may be expanded to have more members, say 60. The present Committee is unable to examine the estimates of all the Ministries during its term. Even if it uses more sub-Committees, 30 members cannot cover all the Departments of the Government. If they are asked to do so, the same person has to be employed for two or more Ministries. That would only over-burden him. It is, therefore, better if the Committee expands to 60 and appoints 20 sub-Committees to deal with all the Ministries.

98. His post should be made a statutory one. There should be similar provisions in the Constitution as have been done for the Auditor-General of India. See Arts. 148-151 of Constitution.

Lastly, as to the implementation of the recommendations, the officers responsible for any inordinate delay should be punished on the charge of defying the Committee. When the Report is adopted by the House, to defy it should be construed to constitute breach of privilege. If such a strong action is taken on the recommendations of the Committee, the officials would not sleep over the recommendations in the report adopted by the House. It is not the Ministers who are responsible for non-implementation of recommendations, but it is the callous bureaucrats who are responsible. They should be harnessed and that could be possible if this suggestion is accepted and implemented.

These are the suggestions to strengthen the Estimates Committee which is intended to save the House from its impotency against the growing menace of bureaucracy "thriving under the cloak of ministerial responsibility".

## CHAPTER VIII

### PUBLIC ACCOUNTS COMMITTEE

#### I

Parliament is called upon to vote large sums of tax-payer's money from time to time. It authorises the Government through the Appropriation Act to draw money from the Consolidated Fund and spend them as per the budgetary allocations. In the interests of tax-payers, it is expected that Parliament should satisfy itself that the moneys so voted are directed for the purposes intended and are spent prudently and economically.

Allocation of the fuel supply for the engines of administration on a year-by-year basis "allows for much greater efficacy and flexibility of legislative determination. This method of control, combined with adequate examination of the actual use of the funds voted, is focused on the questions of the desirable volume of services within the framework of an agency's statutory mandate, and of priorities among alternatives".<sup>1</sup> To challenge the maxim of fiscal accountability on the part of Government would amount to cause simultaneous onslaught on democracy itself.

It may be noted that the efforts of the administration itself can ensure efficiency and economy. But under the present set-up of administration as it is, there is a necessity to have some agency of the House itself to assure it that its wishes are carried out, that Government is conducted honestly and faithfully, and that where business is not transacted efficiently, there is a fair chance that notice will be taken of. It is neither necessary nor practicable to detect every inefficient or unwise action, even if it was possible to say accurately on every occasion what is inefficient or unwise. But the House, through

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1. F M Marx, Elements of Public Administration (Edt ), 1947, pp. 577—578.

its own agency, as J. S. Mill long ago contended, is expected "to watch and control the Government, to throw the light of publicity on its acts, to compel a full exposition and justification of all of them which any one considers questionable, to censure them if found condemnable".<sup>2</sup>

The finance of the country is ultimately associated with the liberties of the citizens themselves. It is a powerful leverage by which English liberty has been gradually acquired. If the House of Commons by any possibility loses the power of control over the grants of public money, the very liberty will be worth very little in comparison. That powerful leverage has been what is commonly known as "the power of the purse"—the control of the House of Commons over public expenditure.

Again, appropriation is "the immediate and logical consequence of the right of levying the supplies".<sup>3</sup> Appropriation means, in its widest sense, control over the destination of money. It has two aspects. Control of the objects on which money is to be spent and of the amount to be spent. It is the first aspect; this is the question of policy. But this power has been enticed away by the cabinet with which the sole initiative vests now. But, given an agreed policy, the House is concerned also that the policy should be accurately stated and that the demand for funds should be detailed and calculated to the last penny just in furtherance of that policy and nothing less and nothing more; appropriation is both the handmaid of policy and yardstick of its efficiency. This is the second aspect of appropriation.

But appropriation alone is not enough. When Parliament appropriates, it only indicates its wishes about the ways the money ought to be spent. There is a clear need to check whether it is spent in the manner directed. The check is effected in two ways: a pre-natal check on issue to ensure that departments receive only funds which they have voted; and

2. J. S. Mill *Representative Government*, 3rd Ed., 1865, p. 104.

3. Lord Monteagle's memorandum to the Select Committee on Public Monies, H. C., 279 of 1857.

a post-mortem check on the final application of funds by means of audit and accounts. To ensure that departments act legally and wisely, it is necessary to have some records of their action. Financial records are in the form of accounts and the examination of such records is audit. Parliament's investigations could only be amateur inquiries. There is, therefore, the need to provide for a professional audit service. Since the main motive of Parliament is to examine the accounts and to discover if funds have been spent as intended, or at least, to see that they had not been spent in "any scandalous, wasteful, or unpopular manner",<sup>4</sup> Committees were appointed by the Commons to investigate the accounts showing how the money had been spent. The Commons felt that "they might claim a more extensive function, as naturally derived from their power of opening and closing the public purse, that of investing the wisdom, faithfulness and economy with which their grants had been expended".<sup>5</sup> For that purpose the Parliament created the office of Comptroller and Auditor-General. His position was made independent of Government and administration by tenure "during good behaviour" and by his control of his own department. He was thus conceived of as a powerful servant of the House, armed with strong power to perform clearly enunciated statutory functions. He was made insulated from both politics and Government. Thus he was to audit the department's accounts for the House of Commons and to report his findings to it. He was given power to ascertain, first, whether the payments charged to the grant are supported by vouchers or proofs of payments, and secondly, whether the money expended has been applied to the purpose for which such grant was intended to provide. To assist him in his investigations he was given free access, at all convenient times, to the books of account and other documents relating to the accounts of the departments.<sup>6</sup>

4. J Redlich, *op cit*, vol II, p. 203

5 H Hallam, *The Constitutional History of England* (1875), Vol. I, p. 536.

6. Sections 27-32 of the Audit Departments Act, 1866

Thus the appropriation machinery on the one hand and efficient accounting with audit checks on the other, are the necessary pre-requisites of any effective supervision, but the appearance of the Public Accounts Committee of the House makes the "circle of control" complete.<sup>7</sup> Money may be carefully appropriated and legally issued and accounts of the administrative departments may be audited by an authority set up by the Parliament, but unless Parliament is prepared to take notice of the results of such audit, these checks would lack an effective sanction and would be meaningless and wasteful. The Public Accounts Committee is the answer.

In England as a Central ministry of finance, the Treasury had many statutory functions in financial and accounting matters and it had also built up for itself a strong controlling position vis-a-vis the spending departments. Both Treasury and Committee functioned, in fact, as checks on their actions, and departments found themselves all too often facing the Committee with the Comptroller and Auditor-General as prosecution and the Treasury as chief witness.

It may be noted here that the Committee is the last stage in a process of control effected by means of an audit which, though it is defined by statute, is also intended to satisfy the Committee's wishes and is, therefore, conditioned to some extent by the Committee's aims. The Committee is intended to perform the following functions<sup>8</sup>: first, to ensure that money is spent as Parliament intended; secondly, to ensure the exercise of due economy; and thirdly, to maintain high standards of public morality in all financial matters. To ensure that money is spent as Parliament intended is clearly the primary function of the Committee. It includes, first, a check on the veracity of the accounts and continuous attention to their form and to the principles of accounting. It includes, secondly, a check on appropriation, for the Committee exists to see that public money goes in the correct amounts to the

7. H. C. 375 of 1856.

8. Obbert Peake (a former Chairman of the Public Accounts Committee), *Public Administration*, Vol. (XXVI) (1948), p. 80.

destinations Parliament intended. The Committee, therefore, compares estimates and accounts, and hears the reasons for discrepancies. It is here the Committee also scrutinises the excess expenditure and virement.<sup>9</sup> The Committee again concerns itself with annuality and close estimating, with new financial procedures and old standards of exactitude. It includes, finally, a check on irregularity. The Committee is expected to see that money is spent according to the rules and practices laid down by Parliament, the Treasury, the departments, and the Committee itself. Thus this primary function—"ensuring that money is spent as Parliament intended" is judicial in character.

The ability of the Public Accounts Committee largely depends upon the information available to it. Its primary source of information, the public accounts, are thoroughly examined and sifted before the few points which merit attention are put before the Committee in a simple and intelligible fashion by the Auditor-General. He occupies a key position in the system of control exercised by the Public Accounts Committee. He is the acting hand, the guide, philosopher and friend of the Public Accounts Committee.

The position of the Auditor-General is unique in many respects. He has statutory duties. His constitutional status and duties isolate him from politics and he is "very much a lone wolf".<sup>10</sup> He has no chief. He has wide discretionary powers which he exercises with consent and encouragement of the Accounts Committee.

It is said that the main aim of the audit is not to reveal all faults, but to reveal enough faults to deter those who handle money and accounts from making mistakes and acting improperly. On the result of his audit the Comptroller and Auditor-General first certifies the accounts as correct, subject to whatever comments he cares to make. Then he writes his

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<sup>9</sup> Virement is the term applied to the practice of transferring funds allotted for one purpose or service to another.

<sup>10</sup> Sir Frank Tribe, the Auditor General 1951-52, described his office as such. Vide Chubb, *op. cit.*, p. 172.

report to the Treasury which are presented with the accounts to the House of Commons and published. These reports constitute the basis for the Committee's investigations.

The views of the Public Accounts Committee carry the greatest weight, and may even transcend those of ministers themselves. As Morrison testifies, they (ministers) even are "pulled up on the ground that.....the Public Accounts Committee have said so and so; and told that 'this is a ruling which no Minister dare ignore'".<sup>11</sup> Thus in England its recommendations become rules and its Reports are recognised as a body of "case law" relating to many questions of public accounting. The more important and permanent of these rules are codified in England in the Epitome which is thus a convenient work of reference, and is used as such in every department.

The effectiveness of the Public Accounts Committee depends upon the extent to which the House deposes its duties to the Committee and how much the House trusts it and allows it to order remedial action on its own initiative. The House of Commons has acted in the most dignified manner by not applying its active intervention.

Public Accounts Committee, thus, has become an effective check on waste and extravagance and thus the parliamentary control over finance has been more effective also. This Committee has been copied in almost all Dominion Parliaments and the Indian Legislatures in the past also copied such a Committee. Lok Sabha has not departed from the practice.

## II

The origin of the Public Accounts Committee in India dates back to 1923. The Act of 1919 had no provision requiring the Government to lay the Audit Report on public accounts on the Table of the Legislatures. But the Rules framed under the Act empowered the Central and Provincial

11. H. C. 189- -1 of 1945- 46 Evidence Q 3228 before the Committee on Procedure.

Legislatures to appoint Public Accounts Committees to examine the accounts of the Government. The establishment of these Committees at such an early period in the constitutional development in the country was mainly due to the efforts of Sir Frederic Gaunlett, the then Auditor-General of India, who had the wisdom to conclude that whatever might be the stage of constitutional development, there was considerable value in subjecting the financial actions of the Government to a close scrutiny by a Committee of the Legislature.<sup>12</sup> In this early period the Public Accounts Committee was not a fully elected one. Its members were partly elected and partly nominated. Its duty was also confined to bring to the notice of the Legislature any irregularity in the accounts of the Government.

The Act of 1935 made a specific provision that the Accounts and Audit Report thereon should be placed before the Legislature.<sup>13</sup> The Rules of Procedure then provided for the appointment of a Public Accounts Committee to examine the Accounts and Audit Report. The new Constitution provides that the reports of the Comptroller and Auditor-General of India relating to the accounts of the Union shall be submitted to the President, who shall cause them to be laid before each House of Parliament,<sup>14</sup> and the Parliament has continued to constitute a Public Accounts Committee to scrutinise those reports.

The Public Accounts Committee now is constituted by members drawn from both Houses of Parliament. It consists of twenty-two members—fifteen from Lok Sabha and seven from Rajya Sabha. Prior to 1954, the Committee consisted of fifteen members, elected by Lok Sabha only. But a battle royal was fought before the present position was arrived at.

It appears that, some members of the Rajya Sabha had soon formulated the idea that in order to effectively carry out its

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12 Vide G S Rau, Accountant-General, Bombay, "The Indian Parliament" Edited by A B. Lal, p. 156.

13. Section 169

14. Article 151(1).

general discussion on the Budget and its debate on the Appropriation Bill, it was necessary that the Rajya Sabha should either have its own Estimates and Public Accounts Committee or that its members should be included in the existing two Committees of Lok Sabha. In January, 1953, the proposals of the Rules Committee of Rajya Sabha with regard to the Public Accounts Committee were sent to Lok Sabha suggesting the constitution of a Joint Committee by adding to the existing 15, 7 from Rajya Sabha. The Public Accounts Committee of the House, however, thought that a Joint Committee or a separate Committee of Rajya Sabha on the subject would be "against the principles underlying the Constitution" and further suggested that the "Speaker be requested to take all necessary steps to safeguard the privileges of the House and the Public Accounts Committee".<sup>15</sup> The Rules Committee of Lok Sabha finally considered the matter and agreed with the conclusions of the Public Accounts Committee.

As the Rajya Sabha continued with its proposals the question was finally settled by the Prime Minister in May 1953, when he successfully moved a resolution "to recommend to the Council of States that they nominate seven members to associate with the Public Accounts Committee of the House" (House of the People).<sup>16</sup> There was wide resentment in the House which can be summarised in the words of a member: "today it is the Public Account Committee; tomorrow it may be the Estimates Committee"; or as another alleged; "what the Constitution prevents the Council from doing, this motion enables it to do in an indirect way". But the motion was adopted on the assurance of the Prime Minister that the financial powers of Lok-Sabha would in no way be tampered with. One point, however was not clear to the members: whether the result would be a Joint Committee or not. On an inquiry from a member, the Speaker assured that even this expanded Committee would still function as a

15. Quoted by Morris Jones, op. cit., pp. 260.

16. H. P. Deb, 12 and 13 May, 1953.

Committee of Lok Sabha "under the control of the Speaker".<sup>17</sup>

It is not a Joint Committee. It is a Committee of Lok Sabha with which some members from Rajya Sabha are "associated". So far as the deliberations and voting and other matters are concerned "all members have the same status" and even the members from Rajya Sabha "will be under the control of the Speaker of the House of the People and not under the control of the Chairman of the Council of States so far as their functioning in the Public Accounts Committee is concerned".<sup>18</sup>

On the whole, it is a good arrangement. If control over finance is intended to ensure economy and efficiency, both the Houses are, no doubt, equally concerned with this part of the administration. Besides, it is meaningless to question their representative character when member of Rajya Sabha excepting a few, are elected by the States Legislatures. Moreover, though the Constitution gives only a secondary role to Rajya Sabha in financial matters, it does not completely exclude it from all interests in financial administration. There is nothing revolutionary in the idea that the House which has a part to play in authorising the Government to spend should have some power to assure itself that the money so authorised is properly, wisely and economically spent. Again, the policy being decided by Lok Sabha, the supervision over the implementation of the policy does not take away the constitutional right of Lok Sabha to control the purse. Rajya Sabha is not the House of Lords—a House of Privileges and hereditary members. As the Prime minister said "the fears of some members were the result of suspicion which flowed from some distant background knowledge of English History".<sup>19</sup> It is a responsible and elected House unlike the House of Lords.

Lastly, the Reports of the Comptroller and Auditor-General are presented to the Rajya Sabha as well. If a report is presented to a House, it has the right to discuss it and there would be no harm if Rajya Sabha discusses the Report through a Committee.

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17. H. P. Deb, Part II, dated 10th May, 1954, Col. 6960.

18. H. P. Deb, 10th May 1954, C 6959

19. H. P. Deb, Part II dated 10th May, 1954, Col 6960.

It has been argued that if there are two Public Accounts Committees of the two Houses, the Government Departments would be at a great disadvantage. "They would have to appear twice before the two Committees".<sup>20</sup> This argument implies that on the same matter both the Committees may make investigations which would result in duplication of the work of the Ministries. It may be remembered that there is another financial Committee of Lok Sabha, the Estimates Committee, which has the power to make investigations on any thing they please, which means also that they have the power to investigate those matters which the Public Accounts Committee might have investigated. But through mutual understanding and liaison system duplication of their work has been avoided. There is no reason to apprehend that the two Public Accounts Committees would always clash in respect of their investigations. Action may be taken to arrange regular meetings of both the Chairmen of the Committees to distribute their work. This would also eliminate another difficulty envisaged by the same author that "if the two Committees differ in their views on any particular matter, they ( Government Department ) would not know to whom to hearken, the voice of Delphi or the voice of Dodona".<sup>21</sup>

Another important factor which strengthens the idea of having two public Accounts Committees is that the present Public Accounts Committee is not able to cover all the Ministries in a year. The table below, taken as a sample, would illustrate the point.

Year	Sittings held	No of Departments covered	No of reports presented.
1	2	3	4
1952-53	35	6	5
1953-54	40	7	1
1954-55	51	7	4
1955-56	31	5	4
1956-57	21	5	5

20. A. R. Mukherjee, *Parliamentary Procedure in India*, 1958, p. 230.

21. *Ibid.*

The chart above clearly shows that the Public Accounts Committee selects some Ministries every year for enquiry. It needs, therefore, an additional body to supplement its work. It may be argued that the Committee could get over this difficulty by appointing sub-Committees as the Estimates Committee does. But the fact is that the system of sub-Committee has been employed and the output has not increased substantially. Besides, Lok Sabha being a busy House, its members need some relief. Under these circumstances Rajya Sabha can substantially contribute in making "the circle complete" by appointing a Public Accounts Committee of its own to take up the rest of the Ministries.

The fifteen members from Lok Sabha are elected to the Committee every year according to the principle of proportional representation by means of the single transferable vote. Ministers are not eligible for election.<sup>22</sup> If any member of the Committee is appointed as a Minister subsequently he is required to cease to be a member of the Committee from the date of such appointment. The term of members is one year only.

One disadvantage of yearly election is that continuity of the membership is not ensured. Thus there is a large number of new-comers to the Committee every year depriving the Committee the services of the senior and experienced members ; and if we apply here what the Speaker said in reference to the Estimates Committee,<sup>23</sup> surely the Public Accounts Committee must be labouring under a serious disadvantage.

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22. Rule 309 (1).

23. In his inaugural address on the 7th July, 1957.

The following table illustrates that every year the Committee consists of a large number of new members bringing the average to as high as 56 per cent of total membership.<sup>24</sup>

Year	Total members	New comers.		Percent		Remarks
		Lok Sabha	Rajya Sabha	L. S.	R. S.	
1	2	3	4	5	6	7
1951	15	15		100	(base	
1952	15	9		59.4	year)	
1953	15	9		59.4		
1954	15	9		59.4		
1955	22	10	7	66.6	100	
1956	22	7	6	46.2	85.8	
1957	22	9	2	59.4	28.6	
1958	22	6	6	39.6	85.8	
1959	22	9	2	59.4	28.6	
1960	22	8	4	54.8	57.2	

Note : In the Committee of 1955 onwards 7 members from Rajya Sabha are included. Thus, Lok Sabha has 15 and Rajya Sabha 7 in the Committee.

The present system may not be very injurious, but it would be better to have more experienced members, whose very presence in the Committee would add to the status of the Committee.

An argument had been put forth in the previous chapter that there is no need to constitute the Public Accounts Committee and Estimates Committee through elections.<sup>25</sup> It

24. Prepared from the Reports of the Various Committees published by Lok Sabha Secretariat, New Delhi.

25. Chapter on Estimates Committee.

may be said that the function of the Committee is to scrutinise and control, hence its membership should be filled in by election to make the Committee fully representative and a small scale replica of the House ; but it can be said that election is not the only method to achieve that objective.

The Committee on Subordinate Legislation has not ceased to be representative though entirely nominated by the Speaker,<sup>26</sup> nor can we say that it is less important or effective ;<sup>27</sup> what we want is continuity of membership, and either the Speaker may be given this right to nominate or Rules may be amended that the term of the members elected should be concurrent with that of Lok Sabha.

The next point of importance to note is the non-partisan spirit of the members of the Committee. Since policy has been decided by the House on a political level, its execution should not be invaded again with a political bias. Paul Einzig explains how in England this is achieved.<sup>28</sup> In each Parliament there are on both sides of the House a number of members who are genuinely interested in Public Finance and are anxious to further the cause of economy combined with efficiency, and such members from either side are generally chosen as members. Government supporters feel that they could best serve their Government by acting as its candid friend in matters of expenditure and that the harm caused by disclosures of wasteful expenditure is more than offset in the long run by the improvement in the administration resulting from such disclosures. They also feel that in criticising the department's extravagance and inefficiency they are fighting the battle of Ministers against those departmental officials that, if entrenched behind an iron curtain of secrecy, frustrate the endeavours of their political chiefs to enforce economy and efficiency. As for the Opposition members, they too are able to consider themselves primarily as representatives of the tax-payers aiming at economy rather than at scoring partisan political

26. Rule 318 (1).

27. See the chapter on the Committee on Subordinate Legislation.

28. Paul Einzig, *The Control of the Purse*, pp 239-40.

points over the Government. Again, the Opposition members are aware of the fact that their purpose would, no doubt, be defeated if the majority is roused on the ground of the partisan behaviour. If the battle between the parties is fought in the Committee as well, the minority, that is the Opposition, cannot win a single battle and this would lead to the survival and safety of the bureaucracy under the cloak of the majority party.

Thanks to this non-partisan spirit, the members of the Committee both in U. K. and in India have demonstrated their ability to conduct their work largely on non-party lines. Though the membership of the Committee in India is distributed among the parties roughly in proportion to their strength in the House, and Government have a majority on the Committee, the members do not bring to bear their party affiliations in their examination of the accounts.<sup>29</sup>

Let us now come to the Chairmanship of the Committee. To ensure scrupulous honesty and meticulous accuracy, formality and regularity, and to fight strongly in the crusade against waste, unwise and inefficient actions of the Government and to lead the Public Accounts Committee to successful conclusions, are the duties devolved upon the Chairman of the Committee. The Chairman of the Committee is appointed by the Speaker from amongst the members of the Committee.<sup>30</sup> If the Deputy Speaker is a member of the Committee, he is appointed as the Chairman. So far, the Chairman of the Committee have all belonged to the party in power as seen below :

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29 First Parliament (1952-1957)—A Souvenir, p. 71.

30. A proposal from Rajya Sabha (in 1953) to make the post elective (by the members of the Committee) did not find favour with Lok Sabha.

## Names of the Chairmen—1951-60

Year.	Name of the Chairman	No. of years served as Chairman
1951	Shri B. Das	4 years
1952	do	
1953	do	
1954	do	
1955	Shri V. B. Gandhi	2 years
1956	do	
1957	Shri T. N. Singh	2 years
1958	do	
1959	Dr. P. Subarayan	1 year
1960	Shri Upendra Barman	2 years

All these five Chairmen belong to Congress party and two of them, Dr. P. Subarayan, and Shri Mahavir Tyagi, have since been promoted to the rank of a Minister. This is a clear departure from the British practice, but the reason seems to be only the absence of a clear Opposition Party in the House.<sup>31</sup> This and some other points made out by the Speaker of Lok Sabha in a recent speech he made, are worth noting here.<sup>32</sup>

He said : "I find that in some States the Financial Committees are presided over by the Finance Ministers. In the House of Commons generally a member of the Opposition [the Finance Secretary (sic) in the previous Government, if possible] becomes the Chairman of the Public Accounts Committee so that he may scrutinise the accounts without fear or favour. While that course is a legitimate one to adopt, we have not been able to do so in Parliament for want of a recognised

31 According to the Rules, no group in the House having less than 50 members can be 'recognised' as a Party by the Speaker, and no Opposition Party could muster that strength so far

32. At the 26th Conference of Presiding Officers of Legislative Bodies in India held at Bangalore on 31st December, 1960.

Opposition. The Chairmen of those Committees, viz., Public Accounts and Estimates Committees, should be at least non-officials. I hope and trust that effort will be made by the States where there are still Ministers presiding over these Committees to appoint suitable non-officials as Chairmen of the Committees". The Speaker reiterated this view on a later occasion.<sup>33</sup>

While one finds himself in complete agreement with the principle laid down by the Speaker, it is not known why he harps on the absence of a recognised opposition in the present Lok Sabha. The purpose can be served if a senior member from the opposition bench who is known for his honesty, integrity and public service is appointed. A convention in this regard may be developed early.

If this is done, although the Committee will contain a majority from the party in power, its proceedings will be in charge of an opposition member. There would be no reason to fear that such a Chairman may cause easily an unsympathetic inquiry into some aspect of Government spending because the composition of the Committee itself would prevent this.

### III

The functions of the Committee have undergone some change since its inception in India. In 1921 the Committee was expected to perform the functions as indicated in the observation of Mr. W. M. Haily made while introducing the motion in the Legislative Assembly for the election of the Committee.<sup>34</sup> He said, "The Committee will call the attention of the Assembly to any case in which there is proved to be either an offence against financial rules or a waste of public money, it will be for the Assembly, in either by Resolution or by other constitutional means within their power, to put

33. Legal, Constitutional Affairs—Fortnightly News Digest (1st April—15th April), Lok Sabha Secretariat, New Delhi, Vol. VIII, No. 7, p. 231. Ref. Item 314.

34. L. A. Deb. 1921, pp. 200-1.

pressure on Government to take proper action in the matter. Let me add that there is still wide field for the Committee when it gets, if I may so express myself, thoroughly into its stride, it may be able to reveal cases where expenditure has been incurred on hasty or unbusiness-like lines. Those who are acquainted with the Report of the Public Accouts Committee in England will be aware of the enormous influence exercised by that body in bringing pressure to bear upon Government to enforce economy in the expenditure of public moneys". The present Committee also is expected to perform a similar function.

The prime function of the Committee, thus, as in England, is the examination of the accounts showing the appropriations of sums granted by Parliament for the expenditure of Government and of such other accounts laid before the Parliament as the Committee may deem fit.<sup>15</sup> In scrutinising the Appropriation Accounts of the Government and the report of the Comptroller and Auditor-General thereon, it shall be the duty of the Committee to satisfy itself—(a) that the money shown in the accounts as having been disbursed were legally available for, and applicable to, the service or purpose to which they have been applied or charged; (b) that the expenditure conforms to the authority which governs it, and (c) the every re-appropriation has been made in accordance with the provisions made in this behalf under rules framed by competent authority. It is also the Committee to examine the statement of accounts showing the income and expenditure of authorities submitted to Parliament. In the course of its scrutiny, the Committee is to satisfy itself that the money recorded as spent against the grant was not larger than the amount granted by Parliament, and that the grant was not spent on matters which lay outside the scope of the grant or on any new service not contemplated in the grant. The most significant part of the functions of the Committee is that the Committee's scrutiny extends beyond the formality of expenditure to its "wisdom,

faithfulness and economy".<sup>36</sup> Cases involving losses, nugatory expenditure and financial irregularities come in for severe criticism by the Committee. Its functions also extend to the realm of "waste, extravagance, lack of adequate administrative controls, and even to unsuitable organisation".<sup>37</sup>

The Rules of Procedure have again provided that it shall also be the duty of the Committee (a) to examine the statement of accounts showing the income and expenditure of state corporations, trading and manufacturing schemes, concerns and projects, together with the balance sheet and statements of profit and loss accounts which the President may have required to be prepared or are prepared under the provisions of the Statutory rules regulating the financing of a particular corporation, trading or manufacturing scheme or concern or project and the report of the Comptroller and Auditor-General thereon ; (b) to examine the statement of accounts showing the income and expenditure of autonomous and semi-autonomous bodies, the audit of which may be conducted by the Comptroller and Auditor-General either under the direction of the President or by a Statute of Parliament ; and (c) to consider the report of the Comptroller and Auditor-General in cases where the President may have required him to conduct an audit of any receipts or to examine the accounts of stores and stocks.<sup>38</sup>

The inclusion of the nationalised industries in the terms of reference is one of the significant achievements of the House. It is argued that Parliament has to have powers to exercise the ultimate control over a State enterprise, Parliament must rightly possess that control when it entrusts the tax-payers' money to a set of people who, however well-intentioned and efficient, should be accountable for the success and good conduct of the enterprise.

Again the degree and mode of Parliamentary control depend upon the form of the enterprise. If the enterprise is

36. V. Subramanian, Public Accounts Committee and its work. First Parliament, a Souvenir, op. cit., p. 71.

37. Morris-Jones, op. cit., p. 284.

38. Rule 308 (3).

departmentally run, Parliamentary control would be as complete as it would be over any other activity of the Government. If, on the other hand, it is a Corporation, the Statute itself would lay down what power are to be given to the Corporation. If it is a company, then Parliamentary control should be as complete as it can be.<sup>39</sup> In the case of departmental units, both the capital and the operating budgets are presented before the House. It affords the House an opportunity to discuss the efficiency of operation of these undertakings. In the case of a corporation, no annual demand is placed before the House unless some money has to be granted as loan or some money has to be invested in the Corporation. In the case of companies, there may be three occasions to exercise control : first, when demands are placed before the House for investment as share capital ; secondly, through questions on the floor of the House ; and thirdly, through the balance-sheet and reports submitted by the companies to the House. Parliament which represents both the shareholders and the consumers should obviously have an opportunity of discussing all aspects of the working and results of the enterprise when a budget grant is made.

Since it is desirable that Parliament should exercise some control, if on nothing else at least on the finances of the public enterprises, the proper machinery to effect such control is the Public Accounts Committee. It handles 95% of the budget. It would not be a healthy system if the rest 5% of the remaining unseen budget of those undertakings is not handled by the Committee. But it is perhaps expedient to re-examine this issue when a separate Committee on Public Undertakings has been instituted.

#### IV

As already said, in India also the work of the Public Accounts Committee is based on the audit reports of the

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39. Report of a seminar on Administrative problems of State Enterprises in India, held in December, 1957. Published by Indian Institute of Public Administration, New Delhi, pp. 4-6.

Auditor-General. The position of this officer is provided by the constitution. He has been ensured of his independence and tenure of service etc. by the Constitution. His duties are well laid down in the Constitution.<sup>40</sup> His report is usually prepared after giving each ministry an opportunity to offer explanations or comments on the relevant portions of the draft audit report. After the report is submitted to the House and committed to the Public Accounts Committee, the programme of action of the Committee is drawn up in consultation with the Auditor-General. He is, in a way, the eye, the ear and the tongue of the Committee. He guides the Public Accounts Committee in its labours, detects the points of questions, presents them with such information as he has obtained and leaves the Committee to pursue them further, to consider them and report on them.<sup>41</sup> He is the "acting hand" of the Committee and its guide, philosopher and friend.<sup>42</sup>

The Committee calls for persons connected with the expenditures and examines them. During the examination the Auditor-General helps the Committee. He knows the ins and outs. His officers are by his side and they help him. This is a decided advantage which the members of the Public Accounts Committee have.<sup>43</sup> He is in attendance every day for assisting the Committee in its examination of the witnesses.

## V

A peep into the inner working of the Committee would indicate how methodically the Committee works. The Committee usually conducts its examination by putting questions to the witnesses. Though the members of the Committee are not experts as the official witnesses appearing before it, by their experience and study, they acquire more than a working

40. Articles 148-151.

41. Quoted by G. S. Rau, *Indian Parliament*, edited by A. B. Lal, p. 157.

42. *First Parliament, Souvenir*, op. cit., p. 72.

43. Speaker's inaugural address to the Public Accounts Committee 1959-60 on 8th May, 1959, at Parliament House *Jrl. of Parl. Inf.* Vol. V. No. 2, p. 111.

knowledge of the problems. Coming from different walks of life and with different ideas, the members approach the work with an original and critical mind. They cross-examine the witnesses with full knowledge that they are extracting information from the official experts. The officials face a barrage of questions and criticisms and argue their cases to defend themselves. The Chairman takes the major part in the conduct of the Committee's deliberations. "He invariably attends all the sittings ; a few other members are also regular".<sup>44</sup> Briefed by the Comptroller and Auditor-General and assisted by the Secretary of the Committee, the Chairman asks questions first and puts the major points to the witnesses. The other members of the Committee then take their turn. The reason why the Chairman puts the questions first to the witnesses, may be that he is expected to put the leading questions and lead the Committee in extracting information from the officials. He alone is well "briefed earlier".<sup>45</sup> He is ordinarily told by the Auditor-General the expected replies from the witnesses and he is thus armed with all possible queries and replies thereto. Other members do not have that advantage. This is the main reason why the Chairman takes the lead in interrogating the witnesses. Of course, it should not be presumed that the other members are quite blank. It is not the case. If one studies the proceedings of the various Public Accounts Committees, it would be clear that the other members contribute much to the inquiry and also much heat.<sup>46</sup> But it is the job of the Chairman to see that members do not go beyond the scope of the examination and he restrains the members sometimes from leading to a conflict with the official witnesses.

The Committee also appoints like other Committees, sub-Committees to make any specific study of any problem. The sub-Committee submits its report to the Whole Committee. Let us now come to the interest of the members in the

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44. First Parliament : A souvenir, p. 72.

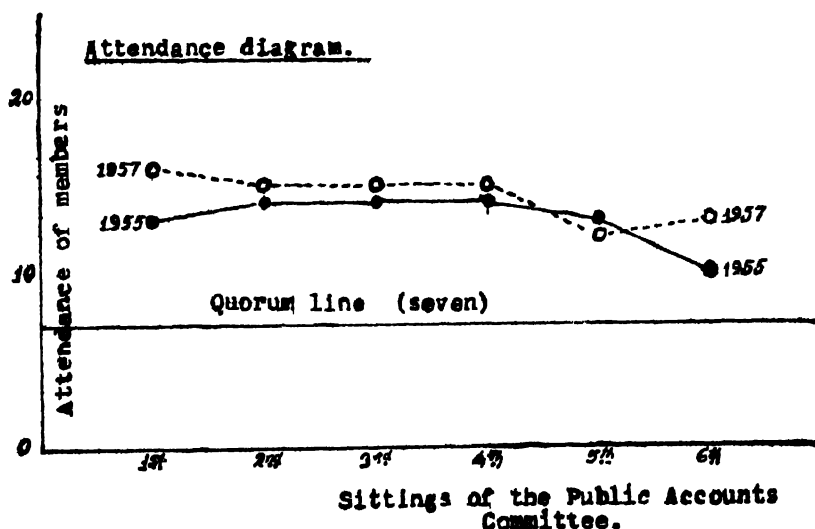
45. Ibid., pp 72-73.

46. Morris-Jones has demonstrated this point in his chapter on Financial Committees.

Committee's work. It is demonstrated through their attendance. The general attendance is quite satisfactory. The following table,<sup>47</sup> taken as a sample, would illustrate the point.

1955			1957		
Sittings	Number attending	P C.	Sittings	Number attending	P.C.
First	13	59	First	16	72.6
Second	14	63.5	Second	15	68.1
Third	14	63.5	Third	15	68.1
Fourth	14	63.5	Fourth	15	68.1
Fifth	13	59	Fifth	12	54.4
Sixth	10	45.4	Sixth	13	59

In the above table it may be seen that the percentage of attendance in 1957 is slightly higher than in 1955. This position can be more clear from the diagram below. In this diagram the position may be shown with the quorum line. The quorum of the Committee is one third, that is seven.



47. Collected from the proceedings of the Public Accounts Committee 1955 and 1957—Published by Lok Sabha Secretariat.

It may be seen from the above diagram that (1) attendance is much above the quorum, and (2) attendance in 1957 is better than in 1955.

Another significant practice of the Committee deserves attention. In the proceedings of the Committee it is found that the Auditor-General and his assistants attending the Committee are shown just after the names of the members of the Committee, with their designation, whereas the officials of the Committee's Secretariat are shown under the appropriate heading "Secretariat" and the officials of the various Ministries are shown as witnesses. The Auditor-General and his Assistants are shown as if they are quasi-members, or more than that as ex-officio non-voting members.

On the basis of facts placed before it, the Committee formulates its findings and makes its recommendations and presents them to the Houses of Parliament in the form of a report. The Chairman of the Committee presents the report to Lok Sabha and another member belonging to Rajya Sabha is specially designated to present the report to Rajya Sabha. There is no hard and fast rule as to the date of submission of the report. But in the United Kingdom, the main report of the year, however, usually appears in July.<sup>48</sup>

The following table, taken as a sample, would illustrate the practice in India.

#### Second Lok Sabha : Public Accounts Committee

<i>Report</i>	<i>Month and date</i>
1st	September 11, 1957
2nd	December 14, 1957
3rd	March 13, 1958
7th	April 30, 1958
10th	November 1, 1958
11th	November 1, 1958
12th	March 6, 1959

Every report usually contains the following : (a) a brief statement of facts under examination ; (b) comments of the

48. Chubb, op. cit., p. 189.

Committee on all or any department which deserved mention ; (c) an outline of the judgements and recommendations of the Committee ; (d) a brief record of the proceedings of the sittings of the Committee ; and notes and memoranda from the departments of the Government ; (e) a statement showing the summary of the principal conclusions and recommendations of the Committee ; and a statement showing action taken on the outstanding recommendation of the Committee. Sometimes appendices of the report are published as a second volume containing the notes and memoranda received from the Ministries concerned. This second volume is produced only when the number of notes and memoranda is large.

The section dealing with the "outstanding Recommendations" is one of the distinguishing features of the report. This feature is the key to the success of the Committee. That is because, first, the Committee could pursue its own recommendations ; secondly, the officials would be aware that the non-implementation of the recommendations of the Committee would be visited by searching enquiry from the Committee, which thus creates a deterrent effect on the officials from their habit of ignoring the strictures on them ; thirdly, it would enable the Minister concerned to assess the efficiency of his Ministry ; fourthly, the House could censure the Ministry concerned if it comes to that ; and fifthly, there would be continuity of work as far as the Committee is concerned. If there would be no follow up, the recommendations would be only a set of wild cries.

An "excess"<sup>49</sup> is considered prima facie undesirable. But it is regarded as an actual crime for a department to ignore a recommendation of the Committee. The department is likely to be dragged to criticism again. The investigations of the following year will inevitably make clear the omission to act and this will almost certainly lead to further censures. The views of the Committee against a department are likely to carry great political weight and even discussed on the

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49. 'Excess' refers to the amount spent in excess of the amount granted by Parliament.

election platforms against the party in power. Therefore no Secretary to Government would like his Ministry to figure largely in the reports of the Committee and no Minister would like to be censured in the hands of the Committee, House, Press and the public. Therefore a convention in India has developed that "most of the recommendations are accepted by Government and implemented."<sup>50</sup> If in certain cases, Government finds it difficult to accept a suggestion or implement a recommendation, reasons therefor are placed before the Committee for consideration. The Committee considers the matter again in the light of Government's views. Differences are normally ironed out in this manner and as far as possible, an agreement is reached. "If the difference still persists, the Committee calls attention to it in its report to Parliament for taking such action as is necessary."<sup>51</sup> An examination of a few reports would make the statement clear.

In the first report<sup>52</sup> of the Public Accounts Committee of the Second Lok Sabha they remarked: "The Committee observe that disciplinary proceedings against the delinquent officials involved in cases of losses, frauds etc., have been delayed. While they appreciate the difficulties expressed by the Posts and Telegraphs Department in this respect, the Committee feels that such difficulties are not insurmountable. They trust next year's accounts will show improvement in this respect". The Department concerned acted promptly and issued instructions to the effect that "in view of the observations made by the P.A.C., Heads of Circles, etc. are requested kindly to take immediate steps to complete disciplinary proceedings against the delinquent officials involved in the pending cases of losses and frauds as early as possible so that the number of disciplinary cases pending in the current year is reduced to the minimum"<sup>53</sup>. It may be noted here that

50. First Parliament: A Souvenir, op. cit. p. 73.

51. Ibid.

52. Presented to Lok Sabha on the 11th September, 1957 by Shri T. N. Singh, Chairman of Public Accounts Committee

53. Instruction issued by Director of Complaints, No. 81-36/57 FRD, dated 12th October 1957 to all Heads of Circles and all Administrative Officers.

the report of the Committee was presented to Lok Sabha on the 11th September, 1957 and Ministry concerned took action on the 12th October, 1957. Red-tape moving with supersonic speed !

There were certain recommendations on which actions taken by the Ministry concerned were considered inadequate. In those cases the Committee demanded further information and sometimes further action. The Committee, for instance, held that "the entire Savings Bank procedure in Post offices needs a thorough examination with a view to better safeguarding of the interests of the State while at the same time effecting simplifications in the procedure in the interests of the depositors". The Ministry concerned submitted a note that "certain steps are being considered by the Department with a view to secure expeditious disposal of business at the counter, in Head and large sub-offices by provision of a separate counter for deposits and withdrawals, introduction of token system, and separation of Head office and sub-office ledgers". This was not considered adequate by the Committee, and they demanded that they "should be informed about the final decision taken to evolve a suitable procedure in savings bank branches of post offices".

In some cases the Committee has gone even to the extent of recommending punishments to officials, and actions have been taken accordingly. In its 22nd Report, the Committee recommended that "adequate action should be taken against the inspecting officers concerned for their failure in discovering the fraud".<sup>54</sup> In obedience to this recommendation, two gazetted officers and several non-gazetted officers were charge-sheeted and punished.<sup>55</sup> These few cases would clearly indicate the effectiveness of the Public Accounts Committee and the extent of the response from the executive departments. In short, the Committee has been a very effective instrument in exercising control over the expenditure and, through these

54. PAC, 22nd Report (1956-57) Paragraphs 53 and 54.

55. See for details the note of the Director General of Posts and Telegraphs, No. QB. 72-RJN-6/54 dated 9. 12. 1957.

powers, over the entire administration, and its status is very high because of the fact that "any imputation made against the Committee is regarded as a breach of Privilege".<sup>55A</sup>

## VI

The description of the procedure and activities of the Public Accounts Committee above makes it possible to analyse the nature of the control it exercises.<sup>56</sup> It may be divided into six types : (a) expert control, (b) financial control, (c) judicial control, (d) non-party control, (e) deterrent control, and (f) post-mortem control.

The first type of control exercised by the Public Accounts Committee is "expert control". Though the Committee consists of laymen, the preliminary checking and examination of accounts are conducted by experts in Government accounts i.e. the Auditor-General and his staff. Their expert audit forms the basis of the Committee's work. Besides, the Committee also hears evidence from experts and employs the technique of "sub-Committee" system to examine and study certain important matters. All these devices contribute much in making the control exercised by the Committee qualitatively superior. The Executive authorities cannot now bluff the Committee on technical matters.

Second type is "financial control". As an Accounts Committee, the Committee examines accounts of the Government and exercises control over finance by pointing out irregularities in expenditure, budgeting, contracts and other matters connected with it.

The third control is "judicial control". The Committee settles such disputed points as might arise between the Auditor-

General and the Finance Department and between the former and any other Government department. It is this function that makes the decisions of the Committee as a bundle of "case laws" which work as 'precedents' in all financial transactions of the Government. The recommendations of the Committee have, therefore, acquired almost the force of law.

The fourth type of control is "non-party control." Though the Committee consists of members elected on the party basis, the members of the Committee have distinguished themselves by letting down their party considerations when they work to enforce the decisions of the Parliament in financial matters. There is no division nor a minute of dissent in the Committee proceedings and the reports. It is this quality that has enabled the Government to tolerate its most terrible blows.

The fifth one is deterrent or what may be called, "Administrative control". Through the control over the purse, the Committee has transgressed widely into the problems of organisation and methods. It investigates the current activities of the Government and exposes the scandals. The Committee has not left even the officials. Its recommendations extended even to such minute matters of administrations as transfers, dismissals, early retirements and so on. We have already referred to one such case in point.

The last type of control is "post-mortem control". It is true that Committee makes post-mortem examination of accounts. its enquiry is old by the time it looks at the problems arising out of the expenditures. But this type of control produces deterrent effect for the future. If the executive is aware that some day some Parliamentary Committee would sit in judgement on its activities, it shall be more meticulous than otherwise it would be. Again, the Committee itself pursues its recommendations, visits the spots, censures the department at fault and tells in the face of the officials its reactions. These produce a tremendous effect on the officials. Therefore, the probe of the Public Accounts Committee cannot be dismissed as useless. As Sidney Webb has said "the fact that post-mortem examination does nothing to keep the patient alive is no proof that the existence of a

*system of post-mortem examinations does not prevent murders."*<sup>57</sup>

*To sum up, the reputation of the Committee that it is a judicial, non-political and expert body has created confidence in all that it could survive and serve as a useful machinery to control the public purse. The following suggestions are made with a view to further strengthening the Committee :*

First, the Chairman of the Committee should be nominated by the Speaker from among the opposition members. ( It has been argued earlier ).

Secondly, the Committee should have more members. This is necessary because all the Departments of the Government should come under the scrutiny of the Committee every year. The present practice of examining only selected departments does not carry the exercise of control very far. To take up all the Departments, twenty major ones, the Committee has to employ 20 sub-Committees of at least three members each. In that case its strength should be expanded to 60 instead of 22 as at present. The expanded Committee should have 40 Lok Sabha members and 20 members from Rajya Sabha. As an alternative to this, it may be suggested, on the same ground, that Rajya Sabha should have a separate Public Accounts Committee. But that has been turned down once. It is, therefore, better to expand the present Committee.

Finally, it may be suggested that the British practice of having 'Epitomes' of the main recommendations may be followed. That would afford a ready made source of reference to all concerned.

57. In his evidence before the National Expenditure Committee, 1918. See its 9th Report, 1918, p 138.

## CHAPTER IX

### COMMITTEE ON PUBLIC UNDERTAKINGS

One of the most controversial problems concerning the Public Undertakings is to determine the degree and direction of the control which Parliament should exercise over these State Enterprises. It is said that too much of Parliamentary control would reduce the Public Undertakings to the status of a Government department, and too little of such control will place such industries "outside the democratic regime."<sup>1</sup> Since these undertakings enjoy a high degree of monopoly, their prices are "managed prices rather than market prices" having repercussions on the country's economy as a whole and on wider issues of public policy, and their activities involve "national interest",<sup>2</sup> it is held that Parliament as the better judge of the national interest should provide necessary machineries to ensure efficient working of those Public Undertakings. As Professor Robson says, it has long been recognised that Parliament has a right to discuss and determine matters of major policy concerning such industries,<sup>3</sup> leaving a large degree of independence to the "management" in matters of current administration which is 'vital to their efficiency as commercial undertakings'.<sup>4</sup> In the United Kingdom, a tendency among the members of the Parliament was once noticed with a demand that "a shareholder's meeting should be in permanent session, that extra-ordinary meetings should be held frequently throughout the year, and that individual members of public boards should be open to personal attack under Parliamentary privilege."<sup>5</sup> Such demands were partly met by the arrangement that a Minister is accountable to

1. Socialist Union, *Twentieth Century Socialism*, p. 95

2. Earnest Davies, *Government Politics and Public Corporation*, *Political Quarterly*, Vol. XXVI, 1955, pp. 115-6

3. W. A. Robson, *Nationalised Industry and Public Corporation*, p. 165

4. Herbert Morrison, *House of Commons Debates*, December 4, 1947.

5. *The Times*, *Parliament and Corporations*, March 5, 1948.

Parliament for anything he or his Department does or for anything he has powers to do, whether he does it or not.<sup>6</sup> There were also other means available to the Members of Parliament. Through questions on matters of policy or of public importance, debates on annual reports and accounts which the Ministers are required to present to Parliament, Parliament gets wide opportunity of enquiry and criticism.<sup>7</sup>

But these means were not considered adequate. The members of the Conservative Party demanded for the establishment of a Committee on Nationalised Industries.<sup>8</sup> The Labour Government then did not accept the idea. But when the Churchill Government returned to power a Select Committee was appointed "to consider the present methods by which the House of Commons is informed of the affairs of the Nationalised Industries and to report what changes, having regard to the provisions laid down by Parliament in the relevant statutes, may be desirable in these methods."<sup>9</sup> The Committee took the evidence of the supporters and opponents of the proposed Committee on the Nationalised Industries. Supporters like Lord Hurcomb, Mr. Molson, Captain Crookshank and Earnest Davies held the view that appointment of a Parliamentary Committee would enable the management of the Public Undertakings "to keep more closely in touch with public and Parliamentary opinion, and as an opportunity to explain the policies they were following and the aims they were trying to achieve."<sup>10</sup> Those who were opposed to the

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6. Morrison, *Government and Parliament*, p. 256.

7. Morrison says that there are several opportunities for Parliamentary discussion, namely, (a) Questions on matters of policy etc., (b) Debate on the Address in reply to the Queen's Speech, (c) Private Members' time when opportunities to move motions are ballotted, (d) Debate on a Bill to amend the original Nationalisation Acts, (e) Motion to approve or annul a Statutory Instrument made by a Minister under one of the Nationalisation Acts, (f) Half-an-Hour discussion, (g) Debate on Departmental Budgets etc., vide Morrison, *op. cit.* pp. 2634.

8. Mr Hugh Molson originated the idea in 1949.

9. The Select Committee was appointed under the Chairmanship of Mr. Ralph Assheton on December 4, 1951.

10. Robson, *op. cit.*, p. 185.

proposal included Mr. Herbert Morrison, Lord Reith and Lord Geoffrey Heyworth. They argued that "if a Select Committee were appointed, the lines of responsibility would tend to become blurred ; and in any case they thought Parliament is not a suitable body to investigate the managerial efficiency of a complex industrial undertaking. The working of these vast corporations would be impeded and their initiative diminished if a Select Committee would be empowered to examine their policies over a wider front ; and the consequences would be more serious still if the day-to-day management were liable to investigation."<sup>11</sup>

The Select Committee, however, made the following recommendations :

- (a) There should be appointed a Committee of the House of Commons by Standing Order, to examine the Nationalised Industries, with power to send for persons, papers and records, power to set up sub-Committees, and to report from time to time ;
- (b) The Committee should direct their attention to the published Reports and Accounts, and to obtaining further information as to the general policy and practice of the Nationalised Industries established by Statute, whose controlling Boards are wholly nominated by Ministers of the Crown, and whose annual receipts are not wholly derived from moneys provided by the Parliament or advanced from the Exchequer ;
- (c) The object of the Committee should be that of informing Parliament about the aims, activities and problems of the Corporations and not of controlling their work ;
- (d) The staff of the Committee should include an officer of the status of the Comptroller and Auditor-General who should be an officer of the House of Commons, with high administrative experience, at least one professional accountant, and such other staff as are required ;

11. Second Report of the Select Committee on Nationalised Industries, 1952-53, para 9-13 It was published on July 23, 1953.

- (e) The statutory auditors of the Corporations shall, in preparing their annual reports, give such information in addition to that now provided by them as may be of use to the Committee and of interest to Parliament.

The Government accepted the recommendation to set up a Committee on Nationalised Industries, but with certain modifications. It was discussed in the House of Commons on February 8, 1954. Ultimately the Standing Committee on Nationalised Industries was set up in 1955. This is the short description of the history of the Committee on Nationalised Industries in the United Kingdom. This background, it appears, influenced the Members of the Indian Parliament to demand for the establishment of such a Committee in India.

## II

With the establishment of large number of state enterprises in India, there was incessant demand for the enforcement of Parliamentary control over such industries. It was pointed out that "Parliament has to have powers to exercise the ultimate control over a state enterprise. Whatever may be the form of the organisation of a state enterprise, Parliament must rightly possess that control when it entrusts the tax payers' money to a set of people who, however well-intentioned and efficient, should be accountable for the success and good conduct of the enterprise."<sup>12</sup>

As a consequence of the demand of the Members of Parliament the Estimates Committee of Lok Sabha was entrusted with the task of examining the selected subjects of Public Undertakings.<sup>13</sup> But this arrangement did not satisfy certain

12. Indian Institute of Public Administration, Administrative Problems of state enterprises in India, Report of a Seminar, December 1957. pp. 1-3.

13. A Public Undertaking for the purposes of examination by the Estimates Committee has been defined in a Direction of the Speaker as follows :—

"a public undertaking means an organisation endowed with a legal personality and set up by or under the provisions of a statute for undertaking on behalf of the Government of India an enterprise of industrial, commercial or financial nature or a special service in the public interest and possessing a large measure of administrative and financial autonomy." See the Speaker's Direction of May, 1955.

Members of the Parliament who wanted a separate Committee to keep in touch with the affairs of the Public Undertakings. However, instead of having a separate Committee, it was thought prudent to have a Standing sub-Committee of the Estimates Committee to perform this duty.<sup>14</sup> One such sub-Committee was instituted on the direction of the Speaker.<sup>15</sup>

This sub-Committee had the power to call for information and hear officials and take any evidence connected with any subject of Public Undertakings under examination. All statutory bodies (with the exception of those not enjoying a corporate status), which carried on industrial, commercial or financial activity or operate a 'special service' came within the purview of the sub-Committee. It had the power to formulate its own report which might then be considered by the Whole Committee. In effect, the sub-Committee on Public Undertakings worked as an independent entity excepting that the selection of subjects to be considered by the sub-Committee was made by the Whole Committee, the draft report of the sub-Committee used to be finally agreed to by the Whole Committee. The members of the sub-Committee were selected by the Chairman of the Estimates Committee from amongst members of the Committee and the sub-Committee worked under the guidance and directions of the Chairman of the Estimates Committee. It worked on the same model as the sub-Committee on Defence.

The sub-Committee's recommendations on being approved by the Whole Committee were becoming the recommendations of the Estimates Committee. The recommendations on the Public Undertakings may be classified into four categories :

- (a) Recommendations for improving the organisation and working ;
- (b) Recommendations for future guidance while examining Project Reports, entering into Agreements, contracts etc. ;

14. Speaker's inaugural address to the Estimates Committee, 1959-60. 7th May, 1959.

15. Direction of the Speaker, May 1959.

- (c) Recommendations for effecting economy which include suggestions for increasing production ; and
- (d) Miscellaneous recommendations.<sup>16</sup>

Estimates Committee's reports on the different Public Undertakings have evoked sufficient interest in and outside the Parliament. It has made the public and Members of Parliament conscious of the shortcomings of the Public Undertakings. In one instance the report led to the appointment of an investigating Committee.<sup>17</sup>

Notwithstanding the fact that the sub-Committee of the Estimates Committee functioned with reasonable efficiency, the demand to establish a separate Committee on the Public Undertakings was raised off and on. Many speakers participating in the Seminar on Administrative problems of state enterprises in India favoured the idea of establishing a Committee in the line of the British Committee. One member of the Seminar argued for arming the Committee on Public Undertakings with effective powers. He said, "it is my feeling that somehow the Estimates Committee has not been able to apply its mind fully to the various problems which many of these Public Enterprises often face. In fact, sometime one gets the feeling that the Estimates Committee merely gives a big list of advices . . . furthermore, . . . I would say that it is only just natural and normal to have a separate Committee which will have a carefully selected type of persons from within the Parliament, where considerable thinking must be brought upon to bear . . . and I suppose there will be no difficulty in separating the area of activity of this Committee from the activities of the Estimates Committee."<sup>18</sup>

The Krishna Menon Report<sup>19</sup> echoed the demand made

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16. Estimates Committee, 1958-59, Third Report, para 61

17. Rau Committee was appointed on the D.V.C. in September, 1952.

18. Indian Institute of Public Administration, Seminar Report, op. cit., pp. 10-11.

19. At a meeting of the Executive Committee of the Congress Party in Parliament on 10th April, 1958, the question of Parliamentary supervision over the Statutory Corporations and other state-owned bodies was discussed. The Leader (Prime Minister) of the party was asked to constitute a sub-Committee. Shri Nehru, thereupon, appointed a sub-Committee with ten members under the chairmanship of Shri V. K. Krishna Menon. The sub-Committee reported its findings in 1959.

earlier by the Members of Lok Sabha<sup>20</sup> and others,<sup>21</sup> to constitute a standing Committee on Public Undertakings. In November 1961, the Government brought a proposal. But after a lot of discussion it was withdrawn with a promise to introduce a fresh proposal on the matter.<sup>22</sup> It took two years for the Government to implement their promise. A motion to constitute a Committee on Public Undertakings was introduced in the Lok Sabha by the Minister of Industries.<sup>23</sup>

The Minister of Industries moving the motion said, "that the function of the Public Accounts Committee and the Estimates Committee in relation to the Public Undertakings would be henceforward the responsibility of the Committee. The purpose was that the duplication and overlapping of functions should be eliminated . . . Several Members of Parliament had expressed concern at the delay in the setting up of the Committee. As far as the Government was concerned, they had accepted the necessity of setting up of a special Committee for Public Undertakings and had, in pursuance of that decision, moved a motion in November 1961. It took more than five years for the British House of Commons to set up a Committee of the nature we propose to set up now. It was curious that the leaders of the Labour Party were not in favour of such a Committee because they thought the enquiries of such a Committee would inhibit initiative and enterprise. However, the working of the Committee for more than four years had belied those apprehensions. But we had to remember that conditions in the U.K. and those in our country were entirely different. In our country, barring seven corporations established by statute of Parliament, all the rest of the Undertakings had been set up as limited companies governed by the

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20. It may be recalled that there was a full debate in Lok Sabha in December, 1953 on Private Member's Bill. "The Public Financed Industries Control Board Bill, 1955".

21. Shri G. V. Mavalankar, the Speaker wrote to the Prime Minister on the question of constituting a Standing Committee in 1954. See also Third Five Year Plan, Planning Commission, 1961, p. 288.

22. Lok Sabha Debates, November 20, 1961,

23. Ibid, September 21, 1963 p. 344

Companies Act. It was obligatory on Government Companies to prepare their annual reports and audited accounts within the specified time-limit for submission to both Houses of Parliament. There was double check on most of the Public Undertakings in our country. At present annual reports and accounts of 60 Undertakings were placed every year before both Houses of Parliament. It would certainly be useful if the House was helped by reports of the Committee which was now being proposed. The Parliament would keep itself informed through its Committee of the progress or regress of the Undertakings and, by its comments, would encourage the efforts of the board of management for a better performance.”<sup>24</sup> The above statement clearly indicates the Government's mind. It also explains why the motion to constitute a separate Committee was delayed. It appears from the speech of the Minister how the Government was wavering on the issue. Ultimately when the motion was moved, the House welcomed it,<sup>25</sup> and passed it on November 20, 1963.

### III

The Committee shall consist of fifteen members drawn from both Houses of Parliament, ten from Lok Sabha and five from Rajya Sabha.<sup>26</sup> The members from Lok Sabha shall be elected from the Members of the House according to the principle of proportional representation by means of single transferable vote. Like other elected Committees of the House, this Committee is intended to be the small scale replica of the House. It is interesting to refer to the discussions on the question of membership in the House. Members of Lok Sabha

24. Ibid.

25. Ibid.

26. The motion which was moved along with the resolution said “That this House recommends to Rajya Sabha that Rajya Sabha do agree to nominate five members from Rajya Sabha to associate with the Committee on Public Undertakings and on the constitution of the said Committee to communicate to this House the names of the members so nominated by Rajya Sabha.” Rajya Sabha agreed.

demanded to increase the membership of the Committee. One urged that "the Committee should be bigger in size than what it was proposed to be at present. The number of its members should be at least twice as many as at present proposed. Every section of the House as also all available talents should be represented on the Committee. Its membership should be of an exemplary character."<sup>27</sup> Another went further to suggest that "the motion should be amended so that the number of members was increased, in the case of Lok Sabha Members to fifteen and in case of Rajya Sabha Members to six."<sup>28</sup>

The association of Members of Rajya Sabha appears to be an act of curtailment of the privileges of Lok Sabha. The Members in Lok Sabha drew pointed attention to this point. One Member asserted that "under the Constitution the Lok Sabha or its Committee alone was empowered to exercise control over the expenditure by the Government. There was no reason whatsoever to get over that constitutional provision and to associate Members of the Rajya Sabha with the Committee. There was no justification for providing such a thing in the motion."<sup>29</sup> Another Member demanded, "the House ought to be told about the precise status of the Committee and whether the Members of Rajya Sabha in the Committee would be able to exercise their functions and whether such exercising of functions would be in accordance with the Constitution."<sup>30</sup> Apparently, there is some truth in the statements made above. In the words of another Member, "Lok Sabha enjoyed the exclusive privilege of financial control over the expenditure of the Government of India. The Estimates Committee alone was entitled to look into the estimates of the Government which also included the estimates of expenditure, investment etc. of the Public Undertakings. Now, if the House was going to have only an indirect share in the control of the estimates of the Govern-

27. Sri Hanumanthaiya, Lok Sabha Debates, November 18, 1965.

28. Sri S. N. Chaturvedi, Ibid.

29. Sri U. N. Trivedi, Ibid.

30. Dr. L. M. Singhvi, Ibid.

ment, it would not be fair for us to agree to the curtailment of the rights and privileges of the House."<sup>31</sup> Even the Minister of Law was apprehensive about the validity of the motion. He said "the exclusive financial rights of the Lok Sabha were contained in Article 109, 110 and 113 of the Constitution. We had to see whether any of the exclusive privileges contained in those Articles were impinged upon by the motion under discussion. If it did, such a motion would be automatically ultra-vires of the Constitution. Even the Lok Sabha could not divest itself of those exclusive privileges whether by motion or by Law."<sup>32</sup> The official reply given by the Minister of Industries was, however, not adequate to clear the doubts of the Members. He said, "the motion for the constitution of the Committee on Public Undertakings did not infringe any provisions of the Constitution as had been pointed out by the Law Minister. The constitution of such a Committee was imperative to examine the reports on the working of the Public Undertakings."<sup>33</sup>

On examination it may be found that the Estimates Committee was going through the reports, accounts, organisational matters of the Public Undertaking and even was suggesting alternative policy. The new Committee on Public Undertakings is not expected to deal with all activities of the Estimates Committee. In the words of the Law Minister, "the Committee had nothing to do with the passing of Money Bills or of the Estimates. It was merely a watchdog over the affairs and business activities of the Public Undertakings."<sup>34</sup> It may be noted here that the motion was so framed that the questions of policy and other matters connected therewith are kept outside the perview of the Committee on Public Undertakings. Since the increasing number of Public Undertakings demands specialised attention, it is desirable that the new Committee should not involve itself in the political

31. Sri A. C. Guha, *Ibid.*

32. Sri A. K. Sen, *Ibid.*

33. Sri N. Kanungo, *Ibid.*

34. *Op. cit.*, *Ibid.*

questions. But the matters connected with or arising out of the examination on efficiency and economy of the Public Undertakings which may lead the Committee to the land of policy should not be construed to be political matters and as such the association of the Members of Rajya Sabha with the new Committee would not in any way contravene the provisions of the Constitution.

#### IV

The functions of the Committee on Public Undertaking shall be :

- (a) to examine the reports and accounts of the Public Undertakings specified in the Schedule ;<sup>a b</sup>
- (b) to examine the reports, if any, of the Comptroller and Auditor-General on the Public Undertakings ;
- (c) to examine, in the context of the autonomy and efficiency, of the Public Undertakings, whether the affairs of the Public Undertakings are being managed in accordance with sound business principles and prudent commercial practices ; and
- (d) such other functions vested in the Public Accounts Committee and the Estimates Committee in relation to the Public Undertakings specified in the schedule by or under the Rules of Procedure and Conduct of Business of this House as are not covered by clause (a), (b) and (c) above and as may be allotted

35. This Schedule includes three parts : Part I, containing the Public Undertakings established by Central Acts such as (1) The D V. C., (2) The Industrial Finance Corporation, (3) The Indian Airlines Corporation, (4) The Air India International, (5) The L. I. C., (6) The Central Warehousing Corporation, (7) Oil and Natural Gas Commission ; Part II contains reference to Public Undertakings which are Government Companies formed under the Companies Act, i e., every Government Company whose annual report is placed before the Houses of Parliament under sub-section (1) of Sec. 619 of the Companies Act, 1956 ; and Part III contains other specific enterprises like Hindustan Aircraft Ltd., Bangalore, Bharat Electronics, Mazagon Docks Ltd., Bombay, and Garden Reach Workshop Ltd., Calcutta.

to the Committee by the Speaker from time to time. Provided that the Committee shall not examine and investigate any of the following matters, namely :

- i. matters of major Government policy as distinct from business or commercial functions of the Public Undertakings ;
- ii. matters of day-to-day administration ;
- iii. matters for the consideration of which machinery is established by any special statute under which a particular Public Undertaking is established.<sup>36</sup>

The functions and limitations thereon of the Committee on Public Undertakings clearly indicate that the sub-Committee of the Estimates Committee was exercising wider powers. Since it was a sub-Committee of the Estimates Committee, its scope of activities extended to all spheres of activities of the Estimates Committee. The functions of the Estimates Committee are as follows : <sup>37</sup>

- (a) to report what economies, improvements in organisation, efficiency or administrative reform, consistent with the policy underlying the estimates, may be effected ;
- (b) to suggest alternative policies in order to bring about efficiency and economy in administration ;
- (c) to examine whether the money is well laid out within the limits of policy implied in the estimates ; and
- (d) to suggest the form in which the estimates shall be presented to Parliament.

The sub-Committee on Public Undertakings of the Estimates Committee was exercising all these powers and there was no threat or challenge from any side to its scope of activities. Thus, the sub-Committee was entering into the realm of policy and organisation of the Public Undertakings.

The new Committee on Public Undertakings, as per its

assigned functions, will not be in a position to enjoy all the powers of the sub-Committee of the Estimates Committee. Again the new Committee is deprived of the power to consider matters which are expected to be considered by the statutory agencies created under the Acts establishing Public Undertakings. Since the functions of the Committee are not all pervasive so far as the Public Undertakings are concerned, there will be serious handicap in the functioning of the new Committee and the jurisdiction of the Committee is likely to be challenged many often by the authorities concerned. The British counterpart is not limited by any such conditions in its works.<sup>38</sup> "The scope of their inquiries would be left to the good sense of the Committee."<sup>39</sup> Mr. R. A. Butler who moved the motion to appoint a Committee with wider term of reference explained that "to give them unfettered discretion in this way was an act of faith..."<sup>40</sup> At the same time he indicated that the Committee "could properly discuss such topics as the financial results of operations, the devolution of authority with a Nationalised Industry, the techniques of managerial efficiency, recruitment and training of technical and managerial staff, relations with consumer councils and the public, and with outside industries, and the unremunerative responsibilities of the boards."<sup>41</sup> The only limitation imposed was that the Committee "should not trespass on matters of day-to-day administration, which are clearly matters for the corporations, or at the other extreme on matters of major Government policy, which are the responsibility of Ministers of the Crown."<sup>42</sup> These two limitations were never contested because otherwise the Public Enterprises would be impaired. In other respects the Committee has been given "unfettered discretion." Grant of such wide powers in Great

38. Robson, *Nationalised Industries and Public Ownership*, p. 190.  
See also K. C. Wheare, *op. cit.*, p. 239.

39. Robson, *Ibid.*

40. *House of Commons Debates*, November 29, 1956.

41. *Ibid.*

42. *Ibid.*

Britain was necessitated by the working of the previous Committee which asked for more powers to effectively perform its task. The old Committee reported that the term of reference as then drafted left "insufficient scope to make enquiries or to obtain further information regarding the Nationalised Industries which would be of any real use to the House"<sup>43</sup> The report led the Government to introduce motion granting more powers—unfettered discretion—to the Committee on Nationalised Industries.

Our Committee on Public Undertakings of Lok Sabha, it is apprehended, will face the same difficulties as was the case with the old Committee on Nationalised Industries in the United Kingdom. Besides, the Members of Parliament were also critical on the inadequacy of the power of the new Committee. One Member even went to the extent of suggesting that "if the Committee was not going to look into matters of major policy and matters of day-to-day administration, what else was going to be left to it."<sup>44</sup> He further warned that "if in the name of autonomy etc. there was going to be a subtle move to curtail the right of scrutiny of the House, it would be resisted."<sup>45</sup> Prof. N. G. Ranga said that the proposed Committee should have all the powers that had been given to the Public Accounts Committee and the Estimates Committee. It should not be prevented from doing what was necessary to see that the public undertakings functioned more efficiently."<sup>46</sup> Another Member demanded that "the Committee should not be deprived of the powers similar to those vested in the Estimates Committee. The Committee should be clothed with sufficient powers to go into details of the administration and organisation of the Public Undertakings so that these enterprises were put on a firmer basis."<sup>47</sup> Various other demands to expand the

43 Robson, op. cit., p. 189

44. Sri A. C. Guha, Lok Sabha Debates, November 18, 1963.

45. Ibid

46. Prof N G. Ranga, Ibid

47. Srimati Renuka Roy, Ibid

powers of the Committee were made. It was urged that the powers and functions of the Committee should be such that "it could go into the working and organisation of the public sector and suggest improvements",<sup>48</sup> including alternative policies.<sup>49</sup> One of the significant suggestions was to empower the Committee to exercise the "power of general supervision" over the Public Undertakings.<sup>50</sup> There were some Members who suggested that "there was no necessity of prescribing the function of the Committee",<sup>51</sup> the proviso to the para 2 of the motion should be deleted,<sup>52</sup> and the Committee should work as an administrative control Committee.<sup>53</sup> One Member went to the extent of prescribing certain tasks of the Public Undertakings and held that the primary functions of the Committee should be to see that such tasks of the Public Undertakings were fulfilled.<sup>54</sup>

In reply to these suggestions the Minister of Industry Sri Kanungo, said that "the function of the Committee was primarily to help the House in having an effective debate on the annual reports of the Public Undertakings and that was so, particularly, because the functions of the Estimates Committee and the Public Accounts Committee had been

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48 Sri S N Duibedy, Ibid

49. Ibid.

50 Sri A. N. Vidyalkar, Ibid

51. Sri Morarka, Ibid.

52. Sri Radhelal Vyas, Ibid.

53. Sri Gajaraj Singh Deo, Ibid

54 Sri Khadilkar prescribed the following tasks :

- (i) to prove more efficient in administration and in operational efficiency than the private sector ;
- (ii) to use surplus arising out of produce for the good of the nation as a whole ;
- (iii) to make easy repayment of foreign loans from the profits as a guarantee of our independent economic growth ;
- (iv) to increase the rate of capital formation in the country to accelerate the rate of growth ; and
- (v) to cultivate a spirit of co-operative feeling among employees and establish the concept of industrial democracy as a part of our economic policy.

delegated to them. Government believed that the collective wisdom of the Members of the Committee would be able to devise ways and means by which they could take a view on essentials of management without inhibiting their initiative and enterprise."<sup>55</sup> He further clarified that "there might be areas where there might be doubt as to what day-to-day administration was and how far it impinged upon the major policy decisions of a particular undertaking, but it was expected that the Chairman of the Committee would be able to resolve that, and in the last resort, the Speaker would have to do that."<sup>56</sup>

The above reply of the Minister appears to have clarified some of the doubts raised during the debates, but the terms of reference, it may be noted, of the Committee as given in the resolution are at variance with the explanations given by the Minister. It would, therefore, be useful to have the scope of the activities of the Committee clearly indicated on the lines suggested by the Minister, otherwise the Committee would be left to work under much strain and lack of jurisdiction and freedom.

## V

The Committee on Public Undertakings has been designed to work as a Standing Committee of the House and with each Lok Sabha its personnel would change. The term of office on the Members has been same as that of the House itself. It was suggested by some Members that the term of the Committee should be limited to three years,<sup>57</sup> but ultimately it was agreed to make the term of the Committee co-extensive with that of Lok Sabha. It may be noted here that the language in connection with the provision on the term of office in the resolution passed by the House appears to be defective. The resolution reads "that the members of the Committee

55. Sri N. Kanungo, Minister of Industry, Ibid.

56. Ibid.

57. Sri S. M. Banerjee, Ibid

shall hold office for the duration of the present Lok Sabha.”<sup>58</sup> The words “present Lok Sabha” appearing therein leaves the term of the future Committee uncertain. It would perhaps be desirable to make it clear by employing suitable language so as to make the term definite for not only the present Committee but for all others in future.

The five year term is quite adequate and would enable the Members of the Committee to acquire experience and thus contribute much to the effectiveness of the Committee. Such a reasonable term of five years is also necessary for the other “Committees to control”, arguments for which may be found in the Chapters dealing with the Public Accounts Committee, etc.<sup>59</sup>

It has been stipulated in the resolution on the Committee of Public Undertakings that in other respects, the Rules of Procedure of Lok Sabha relating to Parliamentary Committee would apply with such variations and modifications as the Speaker might make.<sup>60</sup> Thus, the procedure of its work, the privilege to summon witnesses for taking evidence, preparation and submission of its report, etc., would be governed by the Rules of Procedure of the House.<sup>61</sup>

There appears to be one lacuna in the constitution of this Committee. Since, in the words of the Minister of Industry, the Committee is to perform certain functions what hitherto was performed by Public Accounts Committee and Estimates Committee, in rules should clearly state that the Ministers shall not be appointed as members of the Committee. Even if such a provision does not find a place in the resolution on the Committee of Public Undertakings, the practice of the Estimates Committee and Public Accounts Committee, if followed, would meet the point of justice expected of the Committee as one of the ‘Committees to control’.

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58. Sec. 3 of the Resolution on the Committee of Public Undertakings as passed by Lok Sabha on 20th November, 1963.

59. The Committees to control are : Public Accounts Committee, Estimates Committee, Committee on subordinate legislation etc. See also Rules 309 (2), 311 (2) and 318 (2),

60. Sec. 4 of the Resolution. *op cit*

61. Chapter XXVI, Rules 253 to 286,

## VI

The effectiveness of the Committee depends mostly upon the secretarial and expert assistance available. There was a suggestion in the Parliament that the Auditor-General be taken as the expert to assist the Committee. But on examination it may be found that he will be of some use where post-mortem control is exercised through audit and accounts. Where the scope extends to the examination of the questions relating to economy and efficiency of an enterprise, the Auditor-General as an audit specialist will be of a very little help. Hence an expert on business enterprises who may be called Business Wizard may be appointed with his branch offices located at different places of the Public Undertakings. He should have such qualifications as the Parliament by Law may prescribe. The Business Wizard when appointed should enjoy, loosely speaking, the status of a prosecutor against the Public Undertakings irrespective of their forms. He should enjoy similar status as the Auditor-General does enjoy. The strength of the Committee would largely depend on the vitality and strength of the Business Wizard.

The prime functions of the Business Wizard would be to examine, among other things, the reports, accounts, the organisational matters when implemented and the estimates for the financial year and such other things as may arise during the course of investigation conducted from time to time. He shall be the officer who would provide the ground work to the Committee and it is he who shall be with the Committee as does the Auditor-General in relation to the Public Accounts Committee. To sum up, the Business Wizard will be to the Committee on Public Undertakings what the Auditor-General is to the Public Accounts Committee.

## CHAPTER X

### BUSINESS ADVISORY COMMITTEE

#### I

The main problems of Parliamentary procedure under existing conditions are two : on the one hand, how to find time within limited parliamentary hours for disposing of the growing mass of business which devolves on the Government ; and on the other hand, how to reconcile the legitimate demands of the Government with the legitimate rights of the minority. A large proportion of the business of the House comes "under the application of a great principle, namely, that the day's programme should be fixed in favour of the Government and protected against the initiative of the members".<sup>1</sup>

Since the Houses of Parliament depend upon the cabinet for legislative leadership, it is not a revolutionary idea that more time should be allotted for transacting Government business. Having been made politically and constitutionally the agents of the House, the cabinet proceeds, with ever-increasing rapidity, to bring under their control all initiative in legislation. As a mark of its confidence in the cabinet, the House is prepared to handover to them a predominant influence upon both the matter and regulation of its action. Thus, the problem of general relation of the Government, the custodian of executive power, to Parliament, and in particular, the official relation of the Ministry to the conduct, arrangement and leadership of parliamentary business, has acquired the greatest importance both in theory and practice.

In the United Kingdom, the right to control the time of the House rests with the House, but the exercise of this right, with minor exceptions, is "delegated under a Standing Order to the Government".<sup>2</sup> The Standing Order of the House of Commons

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1. Redlich, *op. cit.*, pp. 114-115.

2. Campion, *op. cit.*, p. 112.

provides that unless the House otherwise directs, Government shall have precedence at every sitting.<sup>3</sup> The use of certain days in the week is reserved to Private Members.

In England the method by which the House is kept informed in advance of the business to be taken at a particular sitting depends partly on the Order Book and partly on a more informal practice. In the case of Private Members' days, precedence is unalterably fixed by the Ballot and registered in the Order Book. The Government, on the other hand, have the right to arrange their business on Government days in any order they please ;<sup>4</sup> and as they have, during the greater part of the session, many more items than can be taken at a sitting, these are carried over from day to day (or for short intervals), and the Order Book affords very little indication as to the business which is really going to be taken on a particular day. This information is provided by means of an announcement made in the House by the Leader of the House on Thursday in answer to a question addressed to him by the Leader of the Opposition on the business for the following week. Of course, the Government is bound by convention to "find time" for certain kinds of business which are not its own. It has to give a day, when asked, for the discussion of a motion containing or implying censure upon its policy ; and it also finds itself once or twice every session under the necessity of giving a day for the discussion of some non-party or inter-party matter for the consideration of which there is a general desire in the House. Finally a very large proportion of time of the House has to be surrendered by the Government for the consideration of business, which may be classed as 'financial and routine' business. This is, no doubt, Government business but "not part of the Government programme."<sup>5</sup> The Government is responsible for it, but as part of the routine work of administration it recurs every session in

3. S. O. 4, House of Commons.

4. S O. No. 14, House of Commons

5. *Campion*, op. cit., p. 114.

much the same proportions, whatever Government is in power.

## II

In India, the Houses of Parliament are technically the final authority to decide how its time should be allotted to different kinds of business. But actually the Government takes more time and it has some influence on the control of the time of the House.

In the Legislative Councils (1854-1920), the Governor-General, as the Presiding Officer, regulated the time of the House.<sup>6</sup> Though he ceased to be the Presiding Officer under the Act of 1919, he continued to allot time for the business of non-official members after considering the requirements of public business.<sup>7</sup> Subsequently the Presiding Officers obtained this power. But the Constituent Assembly of India introduced a machinery called Business Committee, which was "appointed to recommend the order of business" of the Assembly and "guide" the members as to how they "should proceed with their business"; they employed the "Business Committee" to know as to what should be the order of the business of the Assembly.<sup>8</sup>

Following the practice of the Constituent Assembly, Lok Sabha has constituted a Business Advisory Committee to advise it on the allocation of time for the discussion of various items of Government Business.<sup>9</sup>

It may be noted here that the Leader of the House or a Minister on his behalf announces the programme on every

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6. S. S. More, *op. cit.*, p. 193

7. Rule 6, Legislative Rules, 1920.

8. Constituent Assembly Debates, Vol. II, No. 5. pp. 251-52.

9. There is another Committee for Private Business. See the Chapter on "Committee on Private Members' Bills and Resolutions"

Morris-Jones says (*op. cit.*, p. 208) that Business Advisory Committee is an "innovation" of India, but it appears that he is not correct. There is a Business Committee of House of Commons with little different functions. See *Campion*, pp. 331-32, and *May*, p. 1029. S.O. 41.

Saturday for the next week and at the beginning of the session for the session. The Business Advisory Committee then allots time as per the priority determined by the Leader of the House which is announced on Saturday.

It may be seen that a list of business of the day allotted for Government business is prepared by the Secretary of Lok Sabha as per the decision of the Business Advisory Committee. No business not included in the list of business for the day shall be transacted at any sitting without the permission of the Speaker. Besides, the time-limit prescribed by the Business Advisory Committee is very strictly observed.

At the commencement of the House or from time to time, as the case may be, the Speaker appoints the Committee.<sup>10</sup> He nominates all the members. The Committee consists of not more than fifteen members including the Speaker who is the Chairman of the Committee.<sup>11</sup> Unlike other Standing Committees, it has the ministers as its members. Besides, the party leaders are nominated as the members to make it representative.<sup>12</sup>

### III

The function of the Business Advisory Committee is to recommend the time that should be allocated for the discussion of the stage or stages of such Government Bills and other Government business as the Speaker, in consultation with the leader of the House, may direct for being referred to the Committee.<sup>13</sup> In practice, however, all items of Government business for transaction by the House are now referred to Committee for the allocation of time. The Committee has the power to indicate in the proposed time-table the different hours at which the various stages of the Bill or other Government business shall be completed.

The Committee has such other functions as are assigned to

10. Rule 287

11. Rule 287.

12. See Chapter II on the continuity of members in the Committee and for other details

13. Rule 288

it by the Speaker from time to time. The Committee, also, on its own initiative, recommends to the Government to bring forward particular subjects for discussion in the House, and allocates time for such discussion. It was on the initiative of the Committee that discussion was held on such subjects as Peaceful uses of Atomic Energy, Economic Policy of Government, Press Commission Report and General Agreement on Tariffs and Trade.<sup>14</sup> Questions regarding extension of Sessions of Lok Sabha and fixation of sittings of the House on days on which it would not normally sit are first considered by the Committee.

However, it is not the business of the Committee to assign time unless a particular Bill is before the House. Leaders of groups in the Committee and outside indicate the maximum time they would take. The Committee then gives its opinion as to how long a particular Bill may take to get through, the possible time within which consideration of general discussion may be over, when the clauses and the third reading will be taken up etc.<sup>15</sup> The time-table in regard to a Bill or group of Bills and other Government business as settled by the Committee, shall be reported by the Speaker to the House and notified in the Bulletin. The following is the order of precedence of the Government business as determined by the Committee : <sup>16</sup>

1. Government Bills.
2. Bills as reported by Joint Committees.
3. Bills to be referred to a Joint Committee as proposed by Rajya Sabha.
4. Bills as reported by a Select Committee.
5. Bills as passed by Rajya Sabha.
6. Bills for reference to Joint Committee.
7. Bills for reference to Select Committee.
8. Bills as reported by the Joint Committee of the two Houses and to be passed by Rajya Sabha.

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14. First Parliament : A souvenir, p. 95.

15. Speaker's observation, H. P. Deb. Part II. 25th April, 1953, C. 5123.

16. See C. C. No. 5. Vol. III, Lok Sabha Secretariat, pp. 1—5.

9. Supplementary Demands for grants (General).
10. General Discussion on Railway Budget.
11. Discussion and voting on Demands for grants in respect of Railways.
12. General discussion on the Budget (General).
13. Demands for grants—Budget (General) in respect of the various Ministries and Departments.
14. Demands for excess grants (General).
15. Discussion on the President's Address.
16. Discussion on the Report submitted by an Enquiry Commission appointed by the Government.
17. Discussion under Rule 193 of the motions.
18. No-day-yet-named-motions tabled by different members.<sup>17</sup>

The Committee determines also the order of the no-day-yet-named-motions. The Committee recommended that whenever time was allocated by the Committee to no-day-yet-named-motions, early opportunity should be taken by the Government to bring them before the House for discussion. On days when no-day-yet-named-motions are taken up in the House the Government Business should be transacted only up to 4 p.m. and thereafter such motions might be taken up for discussion. If necessary the House might sit up to 6 p.m. on such days. The Committee recommended that the Department of Parliamentary Affairs should indicate a tentative programme for inclusion in the list of Business those no-day-yet-named-motions and discussions to which time had already been allotted.<sup>18</sup> In another report the Committee fixed a day for such motions.<sup>19</sup> It recommended that on every Wednesday one no-day-yet-named-motion might be put down for discussion from 16'00 hours. Thus, the perusal of the various reports of the Business Advisory Committee would also indicate the various types of the Committee's work.

17. The motions whose date of discussion in the House has not been fixed as yet.

18. See C. C. No. 5, Vol. III, pp. 4—5.

19. Ibid. Vol. IV, p. 5.

## IV

The Speaker, as the Chairman of the Committee, presents the report of the Committee to the House and as soon as may be after the report has been made to the House, a motion may be moved by a member of the Committee designated by the Speaker : "that this House agrees with the allocation of time proposed by the Committee in regard to such and such Bill or Bills or other Government Business", and if such a motion is accepted by the House, it shall take effect as if it were an order of the House.<sup>20</sup> It is provided also that an amendment may be moved that the report be referred back to the Committee either "without limitation or with reference to any particular matter."

The decisions reached by the Committee are "always unanimous in character and representative of the collective view of the House."<sup>21</sup> The Committee presents its reports to the House which by convention is adopted by the House unanimously.

A test case may be taken for illustration. After the Chair had announced (on 26th July, 1955) the recommendations of the Business Advisory Committee with regard to allocation of time to the various items of Legislative and other Business for the Tenth Session of Lok Sabha, the Minister of Parliamentary Affairs (Shri Satya Narayan Sinha) moved the motion for the adoption of the recommendations by the House.

Thereupon, some notices of amendments were received suggesting an increased allocation of time with regard to certain Bills.<sup>22</sup>

The Speaker, inter alia, ruled that "if business is to be put through and if the Parliament is to function efficiently and properly, such motions to approve the report of the Business Advisory Committee are considered as only formal motions".<sup>23</sup>

20. Rule 290.

21. Speaker's observation on 28th July, 1955.

22. Two amendments were received—one from Shri H. V. Kamath and the other from Shri Fulsinji. B. Dabhi.

23. Speaker's observation on the 28th July, 1955.

The Speaker further held that since the Business Advisory Committee is fully representative of all parties and the decisions are unanimous, it is obligatory on their part to stand by what the Committee recommends. The Speaker urged that the "House should accept the recommendations of the Committee without the slightest change". Sri Asoka Mehta,<sup>24</sup> the Praja Socialist Leader, while endorsing wholly the statement of the Speaker, apologised to him for not having explained to Shri Kamath the conventions under which the House was working. Members of the Committee were there to put forward the views of the parties and groups which they represented and not their individual views. He, therefore, appealed to Shri Kamath to withdraw his amendment.

Shri A. K. Gopalan, the Communist Leader, submitted in the same context that Members of the House should respect the decision of the Business Advisory Committee. If the recommendations were subject to amendment by the House, there would then be no need for the Committee at all. He stated that in the Committee there were differences of opinion between representatives of parties or groups with respect to allocation of time. But an endeavour had always been made "to arrive at unanimous decisions by mutual adjustment." He, therefore, pleaded that "as a convention the recommendations of the Committee must be accepted by the House in toto."<sup>25</sup>

Winding up the debate, the Speaker observed: "I have already stated that every Member has a right to make comments on the recommendations of the Business Advisory Committee but there are ways and ways of exercising the right". The Speaker has suggested that "if any member feels dissatisfied over the allocation of time by the Business Advisory Committee, the better course would be not to table an amendment to the motion but to represent the matter to the leader of his own party who was there in the Business Advisory Committee. He could then explain to him the reasons as to

24. L. S. Deb. Part II dated 26th July, 1955, Cols. 8423—27. Since Shri H. V. Kamath (P.S.P.) tabled the motion, the P.S.P. Leader apologised.

25. Ibid.

why a particular time was fixed up and the matter is always open for discussion." He, therefore, advised that even in the House when some time was allocated and it was felt that some more time was necessary the result of the adoption of the motion to accept the recommendation of the Committee would amount to make it the allocation order of the House. It becomes necessary to take the senses of the House and the House can revise its views when new situations arise from time to time.<sup>26</sup>

It has been also the practice that in case the Government wants a particular Bill to be discussed by the House on a particular day which has not been allotted by the Business Advisory Committee, the Committee should be consulted. Once, on 2nd December, 1954, before moving the motion for the allocation of time for disposal of Government Legislative and other Business as recommended by the Business Advisory Committee, the Minister of Parliamentary Affairs (Shri Satya Naryan Sinha) requested the Chair to permit the House to sit on Saturday the 18th December, 1954 in connection with the University Grants Commission Bill which was proposed to be referred to a Joint Committee. The Speaker ruled that "the better procedure would have been to approach the Business Advisory Committee again and bring the recommendations from them." The Speaker further said that since the Business Advisory Committee had not considered as to what time should be allotted to the University Grants Commission Bill, that question could not be settled by arguments in the House which would take a long time ; and therefore he concluded : "so what I should say is, let the Business Advisory Committee decide."<sup>27</sup>

It has been also the practice to follow strictly the "Allocation of Time Order",<sup>28</sup> and that the item on the Order Paper

26 Ibid. Mr Kamath, thereafter withdrew his amendment motion. L. S. Deb. Part II dated 28th July, 1955. Cols. 8695.

27. L. S. Deb. Part II. 2nd December, 1954. CC. 1952-53.

28. Allocation of Time Order is the order which indicates the allocation of time for various kinds of business of the House.

should be finished within the allotted time. The Speaker held that whenever they would decide to extend the period of discussion of any item by some time, the House should sit for some time more so that the work that had been allotted for the day under the recommendations of the Business Advisory Committee would be completed.<sup>29</sup> Thus the House sits longer enough to make up for additional time to avoid dislocation in the subsequent programme of business.

The Speaker ordinarily does not allow a matter not on the Order Paper to be raised unless previous intimation is given as, he observed, "it is very often embarrassing to the Chair and the House also if they (Government) should spring any surprise upon it".<sup>30</sup>

It is also the practice that the items of business should be taken up in the order in which they appear on the Order Paper. As it happened once, the Minister of Irrigation and Power (Shri S. K. Patil) requested the Chair that the Damodar Valley Corporation (Amendment) Bill which was item No. 8 on the Order Paper might be taken up earlier as item No. 6. Objection to the request was raised by an Opposition member on the ground that it would disturb the programme of various groups who had already earmarked their members for speaking on different Bills. Agreeing with him that "it may be that some members may expect that this Bill would be taken up later on in the day and may come to the House only then", the Speaker ruled that item No. 6 as already appearing on the Order Paper was to be taken up.<sup>31</sup> The Speaker has repeatedly told the House that he would not allow matters not on the Order Paper to be raised unless previous intimation had been given to him.<sup>32</sup>

Again the Rules of Procedure provide that at the appointed hour, in accordance with the Allocation of Time Order for the

29. L. S. Deb. Part II dated 4th September, 1957. CC. 11841.

20. L. S. Deb. Part II dated 14th December. CC. 5355—56.

31. L. S. Deb. Part II, 21st December, 1957. CC. 7074—75.

32. L. S. Deb. (II) 5.9. 58. C. 4990 L. S. Deb. (II) 12.2.58. CC. 365—70  
L.S. Deb (II) 18. 2. 1958. C. 1278. L.S. Deb, (II) 4. 3. 1958. C. 3336.

completion of a particular stage of a Bill, the Speaker shall forthwith put every question necessary to dispose of all the outstanding matters in connection with that stage of the Bill. No variation in the Allocation of Time Order shall be made except on the request of the Leader of the House who shall notify orally to the House that there was general agreement for such variation, which shall be enforced by the Speaker after taking the sense of the House.<sup>33</sup> Such is the strict order of the House.

## V

The Committee has been working since the 14th July, 1952. The following table taken as a sample case, would indicate the volume of work of the Committee in some Sessions (Second Lok Sabha) :

Sessions.	No of sittings held	No of reports produced.	No. of reports accepted by the House.
1	2	3	4
4th	9	9	9
5th	5	5	5
6th	3	3	3
7th	5	5	5
8th	5	5	5

The record of the five sessions, taken as a sample case, would impress upon anyone that the allocation of time to different kinds of Government business does not take much time. The number of sittings and number of the reports are same. The convention is that all the reports shall be adopted without amendment. The table also shows that all the reports have been adopted by the House.

The Business Advisory Committee plays an important role

in the work of Lok Sabha. It sets the ball rolling. The achievements of the Committee have weighed in favour of its continuance. The conventions that its decisions shall be unanimous and its reports shall be adopted without discussion are the keys of its success. The Committee is intended to regulate the business of the House. It has, since its inception, proved its worth. The fact that the Committee is broad based and representative in character, has also contributed much to the success of the Committee.

# CHAPTER XI

## COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

### I

No complete idea of the control over the Lok Sabha business could be formed without taking into account how the time of the House is allocated between the Government and Private Members' Bills etc., i.e., between official and non-official business. The first category of business is initiated by the Ministers on behalf of the Government. All other matters which are initiated by members other than the Ministers are included in India in the latter category of business. A member of Parliament who is not a Minister is called a "Private Member" or an "unofficial".<sup>1</sup> Such members often submit Bills for the consideration of the House. These Bills are called Private Members' Bills, and not Private Bills.<sup>2</sup>

Non-official Business, both in India and England, consists of Bills and Motions. A limited portion of the time of each session is reserved for their discussion.<sup>3</sup> Private Members' Bills and motions are designed to create an opportunity for ventilating current grievances more effectively than could be done by the use of other forms of Procedure such as adjournment motions. They are also utilised to seize a specially suitable moment for the proposal of a Bill, a moment when some striking instance of an abuse, real or imagined, attributable to the existing state of the law, is fresh in the public mind. It enables the introducer to make a speech on his measure and perhaps of enlisting support for it. It is almost true that such Bills do not make any progress towards enact-

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1. Rule 2, Rules of Procedure of Lok Sabha.

2. Even if they deal with local or personal matters they are called Private Members' Bills. In England there is a distinction between Private Bills and Private Members' Bills. But there is no such distinction in India.

3. Crompton, *op. cit.*, p. 115.

ment into Law, unless it is so entirely non-controversial that it is allowed to pass through its second reading without discussion whatsoever. Very often such Bills and motions, it is seen, are withdrawn with the leave of the House on a statement made by a Minister expressing the desire of the Government to bring forward a Bill on the measure raised therein. Thus the important contribution that a Private Members' Bill makes is not so much of an addition to the statutes, but for "giving publicity to some general ephemeral grievance" Private Members' Bills, therefore, have more of political value.

In a way the non-official business marks the survival of Parliamentary sovereignty in so far as it enables the Private members to force the House and the nation to focus their attention on certain matters which are neglected by the Government. In order to accommodate non-official members, certain days in a week have been set apart for Private Members' Bills and Motions.

## II

In India, even as long ago as 1862, the Legislative Council made provision for the consideration of the Private Members' Bills<sup>4</sup> and the practice has continued ever since. In the Legislative Assembly (1921-1946) also such Bills from Private Members pertaining to Hindu Law and other social problems were introduced and also enacted into Law. The Provisional Parliament made certain provision relating to Private Members' Bills which have been continued by Lok Sabha.

Private Members' Bills suffer from certain handicaps. They have to go through the same (three) stages as Government Bills, but find much difficulty to get the necessary time for it. Besides, they do not also get the expert assistance for drafting their measures in legal terminology. When a private member sets to draft a Bill, theoretically he may be supposed to be competent to draft the same, but in actual practice he faces

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4. Vide S. S. More, *Practice and Procedure of Indian Parliament*, 1960, p. 354.

great difficulties and realises that it is a great task for which only the Government, with its hundreds of expert draftsmen, is properly equipped. This is one of the reasons why so few Bills introduced by private members reach the happy culmination of becoming Acts.<sup>5</sup> In the old Legislative Council, there was a time when the Secretary of the Council used to draft Bills—private Bills—which non-official members desired to introduce. But when the number of such members in the Council increased, this practice was discontinued.<sup>6</sup>

The draftsman of a Bill always has to steer between the scylla of the judicial Bench and charybdis of the public. If he aimed at a popular style—if he tries to express the intention of the legislature in popular language, the language of every day life—he is sure to be told by the Bench and the Bar that he is prolix, that he is inaccurate and that he is wanting in precision. If, on the other hand, he aims at scientific accuracy and precision, he will be informed by the public that he is crabbed in style, and that he is obscure and unintelligible. To escape altogether from this dilemma is impossible.<sup>7</sup> It is obvious that the Private member suffers more in this regard. But the Lok Sabha Secretariat assists the members “in drawing up the Bill in a proper form”.<sup>8</sup>

The Rules of Lok Sabha have provided certain days for the disposal of the Private Members' business. The last two and a half hours of a sitting on Fridays are allotted for this purpose.<sup>9</sup> The Speaker has the power to allot different Fridays for the disposal of different classes of such business, and on Fridays so allotted for any particular class of business, business of that class has precedence. If the amount of Private Members' business is large, the Speaker may, in consultation with the Leader of the House, allot any other day also in addition to a

5. S S. More, *op cit* , p 357.

6. *Ibid*, p. 357.

7 See abstracts of the Proceedings of the Imperial Legislative Council, Vol. XXI, (1882), 458-59. See also More *op cit.*, p. 357.

8. A. B. Lal, *op. cit.*, p. 127.

9. Rule 26.

Friday for the transaction of such business. In case there is no sitting of the House on a Friday, the Speaker may in consultation with the Leader of the House, direct that two and a half hours on any other day in the week, may be allotted for Private Members' Business.<sup>10</sup>

It may be noted here that on a day allotted for the disposal of Private Members' Bills, such Bill shall have relative precedence in the following order,<sup>11</sup> namely;

(a) Bills in respect of which the motion is that leave be granted to introduce the Bill ;

(b) Bills returned by the President with a message under Article 111 of the Constitution ;

(c) Bills which have been passed by the House and returned by the Council with amendments ;

(d) Bills in respect of which a motion has been carried that the Bill be taken into consideration ;

(e) Bills in respect of which the report of a Joint or Select Committee has been presented ;

(f) Bills which have been circulated for the purpose of eliciting (public) opinion thereon ;

(g) Bills introduced and in respect of which no further motion has been made or carried ; and

(h) other Bills.

The relative precedence of Bills falling under any one of the clauses above is determined by ballot held in accordance with the orders made by the Speaker and on such day and in such manner as the Speaker may direct. The Speaker has directed<sup>12</sup> that there shall be one ballot in respect of two consecutive days allotted for Private Members' Bills. The Ballot shall be held on such day not being less than seven days before the first day allotted for Private Members' Bills during a month. In case where notices of resumption of the adjourned debate on Bills are received after a ballot has been held, such Bills are entered in the list of business below the Bills already

10. Rule 26, Proviso.

11. Rule 27 (1).

12. Speaker's Direction No. 3.

ballotted. On a day allotted for the ballot of Private Members' Bills adequate number of Bills which will provide for two days shall be ballotted. The Bills are ballotted in the following order :<sup>13</sup>

(1) Bills classified by the Committee on Private Members' Bills and Resolutions under Category A.

(2) Bills classified by the said Committee under Category B.

3) Bills which have been introduced but not yet classified by the Committee.

The result of every ballot is announced in the Bulletin.

As regards Bills "which are introduced after the ballot is over and notices of next motions (motion for consideration etc.) in respect of which are received before the issue of the list of business", they may set down in the list of business for the day after the Bills already ballotted. A week before the day fixed for the ballot of Private Members' Bills, members are informed through the Bulletin—Part II—that they should send their notices of next motions which they intended to make in regard to their pending Bills so as to enable their Bills being included in the list of business.<sup>14</sup> In cases where notices of next motions are received after the list of business for the first of the two allotted days has been finalised, Bills in respect of which such notices are received may be included in the list of business for the next allotted day at their appropriate places and determined by the ballot held in respect of the two days.

As regards the Private Members' Resolutions, the House has laid down Rules that the relative precedence of Resolutions, notices of which have been given by Private Members, shall be determined by ballot, to be held in accordance with the orders made by the Speaker, on such a day as the Speaker may direct.<sup>15</sup> The procedure relating to the ballot for determining the relative precedence of notices of resolutions given by Private Members shall be as follows :—

13. Speaker's Direction No. 5.

14. Ibid., No. 5.

15. Rule 28.

(i) The ballot shall be held in respect of all Resolutions which satisfy the period of 15 clear days' notice under the Rules and have been admitted.

(ii) A resolution which has been disallowed or is barred under the Rules or has been referred to Ministry or a Member, shall be excluded from the ballot.

(iii) Two days before the day allotted for holding a ballot on Private Members' Resolutions, a Numbered List shall be kept open for entries in the Notice Office during Office hours.

(iv) In the case of members from whom notices of Resolutions have been received, these entries shall be made on their behalf by the Secretary. The name of a member shall be entered against one number only.

(v) The time and place for holding the ballot of Private Members' Resolutions and the result of ballot shall be announced in Bulletin—Part II.

(vi) a. The statement showing the result of ballot shall consist of a primary list and a secondary list.

b. The primary list shall include three original Resolutions in the order in which the names of members giving notice of such Resolutions have been drawn in the ballot.

c. The secondary list shall contain two or more Resolutions similarly drawn by way of reserve.

d. The Resolutions which are included in the secondary list shall not be set down in the list of business unless the Speaker so directs.<sup>16</sup>

Thus it is very difficult for Resolutions of the Private Members to get into the list of business of the day. It is necessary that the order of priority of the non-official Bills and Resolutions is to be determined, and more important, the allocation of time to such Bills and Resolutions should be made. The House has provided a suitable machinery for the purpose of classifying the Bills and allocation of time to the different Private Bills and Resolutions.

16. Under Rule 31 (4).

## III

The machinery which the House has devised to allocate time and determine the order of the Private Members' Bills and Resolutions is the Committee on Private Members' Bills and Resolutions. As soon as possible after the introduction of a Private Members' Bill, the Bill shall be placed before this Committee for classification and allocation of time. This Committee performs the same functions in relation to Private Members' Bills and Resolutions as the Business Advisory Committee does in regard to Government Business.

The members of the Committee on Private Members' Bills and Resolutions are nominated by the Speaker. It consists of not more than fifteen members,<sup>17</sup> and they hold office for a term not exceeding one year and there is no bar to their re-nomination for further terms. The Deputy Speaker is the Chairman of the Committee. The Committee normally consists of members drawn from various groups in the House. The Committee has been entrusted with the following functions :<sup>18</sup>

1. To examine every Bill seeking to amend the Constitution notice of which has been given by a Private Member before the motion for leave to introduce the Bill is included in the list of business ;

2. To examine all Private Members' Bills after they are introduced and before they are taken up for consideration in the House and to classify them according to their nature, urgency and importance into two categories, namely, category A and category B ;

3. To recommend the time that should be allocated for the discussion of the stage or stages of each Private Members' Bill and also to indicate in the time-table so drawn up the different hours at which the various stages of the Bill in a day shall be completed ;

4. To examine every Private Members' Bill which is

17. Rule 293. Prior to 13th May, 1954, the Committee consisted of only ten members. Thereafter its strength was raised to fifteen.

18. Rule 294.

opposed in the House on the ground that the Bill initiates legislation outside the legislative competence of the House, and the Speaker considers such objection *prima facie* tenable ;

5. To recommend a time-limit for the discussion of Private Members' Resolutions and other ancillary matters.

The Speaker has the power to assign such other functions as may arise from time to time.

The Committee on Private Members' Bills and Resolutions adopted a resolution on the 4th December, 1953 enlarging its functions so as to include the question of allocation of time to Private Members' Resolutions. The Rules of Procedure were amended subsequently to provide that the Committee should recommend time-limits for the discussion of Private Members' Resolutions and other ancillary matters.

As regards the classification of the Bills, the Committee has laid down the following general principles to guide them in their task of categorising Bills (vide item 2 of functions) according to their nature, urgency and importance :<sup>19</sup>

1. That in the light of public opinion there is a general necessity and demand for the measure proposed ;

2. That the Bills seek to provide for a lacuna or to remedy a defect in an existing legislation ;

3. That it is not opposed to the Directive Principles of State Policy as defined in the Constitution, the secular nature of the State or public policy and opinion ;

4. That there is already a measure in the legislative programme due for consideration by the House ;

5. That there is a possibility of a comprehensive measure being introduced by Government at a later date ; and

6. That the measure proposed is of such importance and urgency that irrespective of a more comprehensive measure being introduced later, its consideration earlier will at least bring about a statement of Government policy or help in settling an important issue.

All other Bills not falling under category A above shall be included in category B.<sup>20</sup>

As regards the Bills seeking to amend the Constitution, the Committee has enunciated the following principles :

1. The Constitution should be considered a sacred document—a document which should not be lightly interfered with—and it should be amended only when it is found absolutely necessary to do so ;

2. It should be seen that the amendments to the Constitution are suggested as a result of sufficient experience ;

3. Notices of Bills from Private Members should be examined in the background of the proposals or measures which Government may be considering at the time ; and

4. The Constitution should be adapted to the current needs and demands of the progressive society and any rigidity which may impede the progress should be avoided.

The Rules empower the Committee to examine every Private Members' Bill seeking to amend the Constitution of India. One question, however, is not clear, can the Committee recommend that such a Bill should be rejected ? The Committee in fact has done so. The Committee even did not recommend that some Bills be permitted to be introduced in the House. The Constitution (Amendment) Bill, 1958 to amend Article 343, submitted by Shri Chapalakanta Bhattacharyya, and two such other Bills to amend Article 334 of the Constitution, submitted by Shri Balakrishna Wasnik and Shri N. Keshava, were killed by the Committee.<sup>21</sup>

#### IV

While examining the Private Members' Bills, the Committee goes into the desirability of the Bill and takes evidence from

20. The Committee also re-classifies the Bills. In 1959 the following Bills were changed from category A to B.

(a). Minimum Wages (Amendment) Bill, 1959.

(b). Code of Criminal Procedure (Amendment) Bill, 1959.

21. Vide C. C. No. 5 Vol. No. III, p. 20.

the member-in-charge of the Bill. Sometimes a representative of the Ministry concerned is invited to appear before the Committee to present his views.<sup>22</sup> The Committee's classification of Bills or allocation of time depends sometimes on the considerations urged by the member-in-charge and the representative of the Ministry.

The report of the Committee is signed by the Chairman and presented by him or in his absence, by a member of the Committee, to the House. The report ordinarily consists of unanimous conclusions and it is therefore easy to get the report adopted.

At any time after the report has been presented to the House, a motion may be moved that the House agrees or agrees with amendments or disagrees with the report. Not more than half an hour is allotted for discussion of the motion and no member is allowed to speak for more than five minutes on such motion.<sup>23</sup> The Rules also permit to move an amendment that the report be referred back to the Committee without limitation or with reference to any particular matter.

The classification of Bills and the allocation of Time Order in respect of Bills and Resolutions are notified in the Bulletin in accordance with the decision of the House. At the appointed hour, in accordance with the allocation of Time Order, the Speaker shall forthwith put every question necessary to dispose of all the outstanding matters in connection with the completion of a particular stage of the Bill.

The Committee in its reports sometimes recommends not only on the classification of the Private Members' Bills and Resolutions and allocation of time thereto, but also on the procedural aspects of holding a single ballot in respect of such Bills in a session. The Committee recommended that there should be one ballot each month for determining the relative precedence of pending Private Members' Bills covering two consecutive days allotted for such Bills. In case where notices

22. Committee exercises this power under the Speaker's Direction No 27.

23. Rule 295.

of next motions are received after the list of Business for the first day has been finalised, the Committee suggested that, Bills in respect of which such notices were received should be included in the list of Business for the next allotted day in their appropriate places as determined by the ballot. The Committee has recommended that when a Bill has been introduced, notice for introduction of an identical Bill should lapse.<sup>24</sup>

As regards the question of delegating the responsibility of the member-in-charge to another member of the House to pilot the Bill on his behalf, the Committee held that if a member-in-charge of a Bill is unable, due to adequate reasons, to pilot a Bill after introduction, he might authorise another member to do so with the approval of the Speaker.

Again where notices for resumption of adjourned debate on Bills had not been received and the Bills had been excluded from the ballot, the Committee held that such Bills should be included in the list of Business after the Bills balloted earlier, if notices for resumption of debate were received subsequently. The Speaker has implemented these recommendations by issuing directions.<sup>25</sup>

## V

A study of the reports of the Committee would indicate the effectiveness of the Committee. It may be seen that in some reports the Committee did not recommend certain Bills seeking to amend the Constitution and they have recommended the introduction of certain other Constitution (Amendment) Bills. The following Bills seeking to amend the Constitution of India were not recommended for introduction by the Committee :

1. A Bill to amend Art. 343, submitted by Shri C. Bhattacharyya.

24. Thirtieth Report of the Committee on the Private Members' Bills and Resolutions as adopted by the House on the 5th August, 1955.

25. Speaker's Directions No. 28 to 30.

2. A Bill to amend Art. 334, by Shri Bal Krishna Wasnik.

3. A Bill to amend Art 334, by Shri N. Keshava.

The above Bills were killed on the Committee's recommendations.<sup>26</sup>

The following Bills seeking to amend the Constitution of India were recommended for introduction :

1. A Bill to amend Art, 134 and 136, by Shri Subimal Ghose.

2. A Bill to amend Art. 136, by Shri Bal Krishna Wasnik.

3. A Bill to amend Arts. 136, 226, 227, 228 and 329, by Shri Narayan Das.

The activities of the Committee may be understood from the number of sittings held, as indicated below :<sup>27</sup> (taken as a sample case).

Sessions (Second Lok Sabha)	No. of sittings held.	No of reports made.	No. of reports adopted by the House.
4th	10	10	10
5th	6	6	6
6th	5	5	5
7th	12	12	12
8th	5	5	5

The above table indicates how all the reports presented by the Committee have been invariably adopted by the House. The Committee has produced one report per sitting. Thus it may be observed that the Committee has been active all through and that the work is comparatively easy and non-controversial.

## VI

The present procedure in case of Private Members' Bills is that after the Committee examines and reports, the Private Members' Bills are introduced in the House and they are

26. C. C. No. 5, Vol. III, p. 20.

27. C. C. No. 5, Vol, VI, p. 23. See also C. C. No. 5, Vol VII, p. 19.

either passed or rejected depending upon the backing it gets from the Government. If a Committee of the House has already gone into the merits of the Bill and recommends for its introduction, there is no strong reason why the Government should not take up these Bills and introduce as their own. In that case there would be greater possibility of their approval and the Committee would certainly make much contribution to the legislative work of the House.

The Committee could be more effective and could do more useful service if the following suggestions are adopted,

Since the Committee has been given the power to consider the merits of all the Private Members' Bills and Business, the member-in-charge of the Bill, a representative of the Ministry concerned and other experts may be invited to give evidence. Then the Committee should first be satisfied that there is need for such a Bill. After going through the evidence tendered before it, it should recommend that the Bill be brought forward in the comprehensive form by the Government. It should be the convention that such recommendation should be implemented during the session as far as practicable. If this Parliamentary Committee is convinced of the desirability of the policy laid down in the Bill, it should be construed that the feeling of the Committee reflects the feeling of the House. Hence the Government should come forward to implement the recommendations as a mark of honour to the sovereignty of the House. If this proposal is accepted and implemented, necessary changes in the Rules of Procedure should be effected.

It is desirable that the Speaker should then be ex-officio Chairman of the Committee and the leader of the different groups in the House nominated to the Committee or each group is asked to nominate its representative. If necessary the membership of the Committee should be increased from 15 to 25. If certain policies are decided while examining the Private Members' Bills etc. by way of compromises or understandings, the Government may not face difficulty against such Bills incorporating the policies agreed to by the Committee. Much of the criticism that the cabinet has eloped with legisla-

tive leadership shall be minimised by reviving their power of taking more interest in the matter of legislation. It is a proposal which requires further examination. But there is a *prima facie* case to adopt such a new Procedure. It would, no doubt, add strength and prestige to this minor Committee.

## CHAPTER XII

### THE COMMITTEE ON RULES (RULES COMMITTEE)

Nothing tends more to throw power into the hands of the administration, and of those who act with the majority of the House, than a "neglect of" or departure from, the Rules of Proceedings. These Rules operate as a check and control the actions of the majority ; and they are, in many instances, a shelter and protection to the minority, against the attempts of power.<sup>1</sup> It is always in the power of the majority, by their numbers, to stop any improper procedures by their opponents. The only weapon by which the minority can defend themselves against similar attempts from those in power is the Rules of Procedure which have been adopted as and when found necessary, and have become the law of the House.

All these Rules of Procedure endeavour to preserve impartiality and civility in debates. Besides the propriety that in a House composed of gentlemen and deliberating on subjects of the greatest national importance, decency and decorum should be observed as well in their deportment and behaviour to each other as in debates. Thus in England the Rules of Procedure of the House of Commons were worked out, so to speak, as the "Procedure of an Opposition", and acquired once for all their fundamental character.<sup>2</sup>

In the nature of things there grows up a conception of political life which recognises that the maintenance of honourable Rules and methods of fighting and erection of stout barriers against inconsiderate "use of mere preponderance of power" are the most urgent demands of political wisdom, nay, are necessary requirements for the protection of the State. To

1. Speaker of the House of Commons, Mr. Arthur Onslow quoted by Hatsel in his "Precedents of the Proceedings of House of Commons", Vol. II, 3rd Edn., pp. 224-225.

2. Redlich, *op. cit.*, p. 56.

maintain the parliamentary reign it is necessary "to fight under a system of literally sacrosanct Rules of battle".<sup>3</sup>

It is thus necessary that every deliberative body be governed by Rules of Procedure in order that the will of the majority of its members may be determined and revealed in an orderly manner. These Rules of Procedure promote the orderly and business-like consideration of the questions which come before it. These Rules determine the priority and manner of consideration of questions and provide an orderly and methodical plan so that all business may receive proper consideration. Thus confusion and waste of time and effort are eliminated. Whether these Rules are in all cases the most rational or not, is really not of so great importance. It is much more material that there should be a Rule to go by. There should be uniformity of proceeding in business. It should not be subject to the caprice of the Speaker or captiousness of the members. It is very material that order, decency, regularity and uniformity be preserved in a dignified public body.<sup>4</sup>

Rules of Procedure fulfil another purpose in protecting the rights of members. Individual members, for example, are entitled to receive notices of meetings and to the 'opportunity to attend and participate in the deliberations of the House. Some Rules are also necessary to avoid confusion by designating one course of Procedure when more than one course might otherwise be followed.

These Rules express the technical requirements for the formation of the will of a Legislative Assembly. They rest ultimately upon the elementary psychology of human combination for action, and on the elementary necessities of any arrangement. The formation of a united will is the object for which every parliamentary body exists. It is a priori conceivable that, to this end, complete agreement of all members of the Assembly might be demanded.<sup>5</sup> As, however, with human

3. Ibid., p 59

4. Hatsel, op. cit., Vol. II., p. 149.

5. J. Bentham, "Essay on Political Tactics". Quoted by J. Redlich, op. cit., p. 186

nature as it is, unanimity can only seldom be attained it is a common custom to attribute to the united will of the majority the same effect as would be given to that of the whole body. Rules recognise this mode of will-forming-activity of a representative body.

Every representative body has an inherent right to regulate its own Procedure subject to provisions of the Constitution. In addition to this inherent power most Constitutions contain substantially the provision that "each House shall determine the Rule of its Procedure". Such constitutional rights of the House to control its own Procedure cannot be withdrawn or restricted.<sup>6</sup> But in general, Parliaments are governed in accordance with the recognised principles of parliamentary law subject to any special provisions of the Constitutions and any Rules adopted by it.

Thus Rules of Procedure are derived from several sources. The principal sources are as follows :

- (a). Constitution, if any ;
- (b). Adopted Rules ;
- (c). Speaker's decisions ; and
- (d). Customs and precedents.

Wherever there is a conflict between any Rules from these sources, "the Rule from the source listed earlier prevails over the Rules from the source listed later."<sup>7</sup>

## II

The Constitution of India provides that each of the Houses of Parliament shall have right to make Rules for regulating, subject to the provisions of this Constitution, its Procedure and the Conduct of Business.<sup>8</sup> The Constitution has also provided for the language to be used in Parliament,<sup>9</sup> and for

6. Paul Mason, *Mason's Manual of Legislative Procedure*, pp. 32-33.

7. *Ibid.*, p. 33.

8. Article 118., (i)

9. Article 120.

some restrictions on discussion in Parliament.<sup>10</sup> Provisions as to the introduction and passing of Bills, joint sitting of both Houses in certain cases, special Procedure in respect of Money Bills and assent to Bills have been made in the Constitution.<sup>11</sup> Thus some of the Rules of Procedures have been specified in the Constitution. The Constitution leaves the rest to the Houses of the Parliament to make and follow. As remarked above, the Rules made by the Houses of Parliament should be "subject to the provisions of the Constitution."

The power of the House to determine its Rules of Procedure is a continuous power. It can always be exercised by the House and is absolute and beyond the challenge of any other body or tribunal if the Rules do not ignore the Constitutional restraints. When any Rule is made which is inconsistent with the provisions of the Constitution, it is reasonable to expect that such a Rule would be declared ultra vires by the courts. The immunities and privileges of the House are not extended to violate the Constitution through Rules.

The Constitution prohibits the courts from enquiring into the proceedings of Parliament.<sup>12</sup> It says that the validity of any proceedings in Parliament shall not be called in question on the ground of any alleged irregularity of Procedure. No Officer or member of Parliament in whom powers are vested by or under the Constitution for regulating procedure or the Conduct of business, or for maintaining order in Parliament shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers. Thus the Constitution makes the Rules of Procedure governing the business of the House so very sacrosanct that the courts are denied the right to intervene.<sup>13</sup>

The Rules of Procedure once made continue to be in force

10 Article 121

11. Articles 107 to 111

12 Article 122

13 Violation of Rules of Procedure adopted by a House for its own convenience and not prescribed by the Constitution, will not impair the validity of a statute

even after the expiry of the term of each 'Parliament. But the new House or even the existing House has the power to abolish, modify or waive its own Rules of Procedure. A majority does not have the power to make a Rule which cannot be modified or repealed by a majority subsequently.

The House cannot tie its own hand by establishing unchangeable Rules. Rules of Procedure are binding on the House till they are modified. The House does not depend upon any outside authority for making any change in the Rules. A House having the right to perform a function must be allowed to select the means and modes of accomplishing such act within reasonable bounds. Thus the House at its preceding meetings does not and should not have the power to bind its successors or to put shackles on it that might be cast off only in a particular way.<sup>14</sup>

Since the purpose of Rules of Procedure adopted by a House is to aid the House to perform its duties, whenever the Rules fail to serve this purpose, unless prescribed by the Constitution itself, the Rules may be ignored or relaxed, or suspended. Thus Lok Sabha Rules of Procedure provide that any member may, with the consent of the Speaker, move that any Rule may be suspended in its application to a particular motion before the House ; and if the motion is carried, the Rule in question shall be suspended for the time being.<sup>15</sup> It is the simple majority then present and voting which shall decide the issue. With the Speaker's support, all the self-made Rules can be suspended by the majority of members. Hence the Rules are elastic.

It is to be considered whether the suspension of the Rules should be made only by a simple majority in the House or by at least two-thirds majority of the total membership of the

14. Mason, *op cit.*, p. 45.

15. Rule 388. On February 21, 1951, to take some instances, Rules were suspended on the question of fixing priority of Cut Motions on Demands ; in 1954, the Rule, which required that there should be two days between the Bill being presented and its being taken up, was suspended when the Delimitation (Amendment) Bill was taken up. Vide Parl. Deb., Vol XI, Col. 3845.

House as in the U.S.A.<sup>16</sup> If a provision is made for the two-thirds majority, it would ensure sanctity of the Rules. Otherwise, the majority, in the absence of a strong Opposition in Lok Sabha, may utilise the power of suspending the Rule by majority to sabotage the minority. Not only that ; it should also provide for a notice of at least 3 days to be given before such a motion to suspend the Rules is permitted to be tabled ; otherwise the minority in the House may be caught unawares and the sanctity of the Rules may be in danger.

### III

From the beginning of Lok Sabha, its Rules of Procedure have been formulated. Some of them have been amended.<sup>17</sup> Many of them have been amplified and broadened to meet the exigencies that have arisen from time to time. To-day they are perhaps the most finely adjusted and scientifically balanced Rules. Under them a majority may work its will at all times in the face of the most determined and vigorous opposition of a minority. The credit goes to the Committee on Rules, but for whose ingenuity it could not have been possible.

The Rules of Procedure of Lok Sabha provide that there shall be a Committee on Rules of Conduct of Business in the House and to recommend any amendments or additions to these Rules that may be deemed necessary.<sup>18</sup>

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16 Rule 27 Rules of the House of Representatives, U S.A. It is provided that no Rule shall be suspended except by a vote of two-thirds of the members voting, a quorum being present, nor shall the Speaker entertain a motion to suspend the Rules except on the first and third Mondays of each month, preference being given on the first Monday to individuals and on the third Monday to Committees, and during the last six days of a session.

17. For instance, in Rule 131, for sub-Rule (2) the following has been substituted. Thus "(2) where a Bill has undergone amendments, the motion that the Bill as amended be passed, shall not be moved on the same day on which the consideration of the Bill is concluded unless the Speaker allows the motion to be made". Consequently the sub-Rule (3) of Rule 131 has been omitted, and sub-Rule (4) renumbered as sub-Rule (3)

18. Rule 329 The Committee was first appointed on the 26th May, 1952.

The Rules Committee, as it is also called, is nominated by the Speaker and consists of fifteen members including the Chairman. The Speaker is the ex-officio Chairman of the Committee.<sup>19</sup> Like other Committees the majority of the members are drawn from the ruling party. It is seen that there is continuity of membership in the Committee. The following table, taken as a sample case, would show how most of the members of the Rules Committee of 1960 were members earlier in the previous Rules Committees

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1. No. of members	...	...	...	15
2. No. of new members	..	...	...	3
3. P. C. of 2 to 1	...	...	...	20
4. No. of members having one year of experience				4
5. P. C. of 4 to 1	...	...	...	26·2
6. No. of members having two or more years of experience				8
7. P. C. of 6 to 1	...	...	...	54·2

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Thus it may be seen that the Committee consists of a majority of experienced members. It could be possible because the Speaker has the power to nominate them. But one can say that in a way it is the Speaker's Committee ; he is there as Chairman and his nominees are its members.

#### IV

The Committee considers all proposals for amending the Rules of Procedure. When a member of the House gives notice of an amendment, he is invited to attend the Committee to present his views on the proposed amendment. After hearing the members who had given notice of amendment and considering all the aspects in regard to it, the Committee embodies its conclusions in the Report.

Apart from the members of the Committee, "some other members of the House are also invited (by the Chairman) to

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19. Rule 330. (In U.S.A. the Rules Committee consists of 12 members).

attend particular sittings of the Committee on the basis of their special interests in order to make the representative character of the Committee Complete."<sup>20</sup>

The recommendations of the Committee are laid on the Table of the House, and within a period of seven days, beginning with the day on which they are so laid, any member may give notice of any amendment to such recommendations.<sup>21</sup> Any notice thus given shall stand referred to the Committee who shall consider it and make such changes in their recommendations as the Committee may consider fit. The final report of the Committee thus made shall be laid on the Table. Thereafter, a member of the Committee moves a motion that the House agrees to the Report. If the motion is carried, the amendments to the Rules stand approved. Thereupon, the Speaker promulgates them by publishing them in the Bulletin.<sup>22</sup>

If notice of such an amendment has not been given within seven days, the recommendations of the Committee shall be deemed to have been approved by the House. And on the expiry of the said period the Speaker shall publish in the Bulletin the amendments to the Rules as recommended by the Committee.<sup>23</sup> Then the Rules as recommended stand amended. The amendments to the Rules shall come into force on their publication in the Bulletin unless otherwise specified.

It may be observed here that since the Speaker is its Chairman, it is laid on the Table of the House by a member of the Committee.<sup>24</sup> The Committee ordinarily recommends that "the draft amendment as shown in the Appendix to the

20. S. S. More, *op. cit.*, p. 522. See also First Parliament : A Souvenir, p. 96.

21. Rule 331 (i).

22. Bulletin means the Bulletin of the House (Lok Sabha) containing (a) a brief record of the proceedings of the House at each of its sittings, and (b) information on any matter relating to the business of the House or Committees.

23. Rule 331 (3).

24. For instance, Shri K. S. Raghavachari, a member of the Rules Committee, laid on the Table the 8th and 9th reports on the 26th March, 1957.

Report be made in the Rules of Procedure'. The House agrees to the Report as a matter of course, and notices of amendment are rare.

Till 1954, amendments to the Rules of Procedure and Conduct of Business in Lok Sabha were made by the Speaker on the recommendations of the Rules Committee. But the Rules Committee, however, decided<sup>25</sup> that their recommendations should be approved by the House before any amendment to the Rules of Procedure was carried out. The new Procedure was brought into force with effect from the 15th October, 1954.

## V

A study of the Reports of the Committee would convince one as to the extent of work the Committee has undertaken so far. A review of their important Reports reveals the utility of the Rules Committee.

In their First Report,<sup>26</sup> the Rules Committee made 19 recommendations to amend the Rules of Procedure. The report contained the following important recommendations. The Committee suggested that "the following definition shall be inserted, namely : 'Precincts of the House' means and includes the Chamber, the Lobbies, the Galleries and such other places as the Speaker may from time to time specify". The Committee explained the reasons for having a definition of the term precincts of the House. It said : "in some Rules ( 367 and 387 (3) ) this term has been used, but it has not been defined anywhere. A definition is necessary also because the area under the control of the Speaker which is considered to be privileged and sacrosanct should be precisely known". The reason for providing for such a definition was that at that time a large number of privilege motions were being moved against the activities of the police "within the precincts of the House."

Under Rule 321 of Rules of Procedure the introduction of

25. At their sitting held on the 20th September, 1954.

26. Laid on the Table on the 3rd December, 1955.

identical Bills<sup>27</sup> is not permitted during the same session. In their 13th report, the Committee on Private Members' Bills and Resolutions recommended that provision should be made to the effect that when a Bill has been introduced, the notices for introduction of identical Bills should lapse. The Rules Committee accepted the suggestion and recommended for the introduction of a new Rule. The Committee also accepted another recommendation of the Committee on Private Members' Bills and Resolutions, and recommended that if a member in charge of a Bill is unable, for reasons which the Speaker considers adequate, to move a motion, he may authorise another member to move that particular motion with the approval of the Speaker, but the member who introduced the Bill shall continue to be the member-in-charge.

It was the Rule till then that the third reading of a Bill could be taken up immediately after the second reading was over. As a result, there was no time available for members to study the Bill, as amended, after the second reading was over. The Committee recommended that "when the Bill has undergone amendments, the motion that the Bill as amended be passed shall not be moved on the same day on which the consideration of the Bill is concluded, unless the Speaker allows the motion to be made."<sup>28</sup> The discretion to the Speaker has been given to enable the House to pass a Bill which deals with amendments of a minor nature or which is urgent.

Another question considered by the Committee referred to the exclusion of Ministers from all Parliamentary Committees. Till then the Ministers were debarred from the membership of the Estimates and the Public Accounts Committees only. The Committee recommended that the Ministers should also be debarred from membership of the Committees on Petitions, on Subordinate Legislation and on Government Assurances. The recommendation was accepted.<sup>29</sup>

27. Bills of identical or similar nature or substance.

28. Rule 131 Sub-Rule (2).

29. Amendment was to the Rules 181, 265 and 278.

The other recommendations in the First Report refer to raising of membership of the Estimates Committee from 25 to 30, procedure regarding service of a legal process of arrest within the precincts of the House, making of reference to strangers by speech on the floor of the House, naming of a member by the Speaker etc.

The Second Report deals mostly with the Procedure of passing a Bill seeking to amend the Constitution.<sup>30</sup> In this connection the Law Minister raised a question whether, in view of the mandatory provision contained in Article 100 (1) of the Constitution, it was constitutionally correct for the Rules of Procedure to lay down that various "interim motions"<sup>31</sup> in connection with a Constitution Amendment Bill must also get the special majority which is required by Article 368 for the passing of such a Bill. According to the Minister the words "when the Bill is passed in each House" which occur in Article 368 refer to the final stage when, after all clauses, schedules, the short title, the enacting formula and the long title have been adopted, the motion is put to the House that "the Bill be passed", and it "cannot be said that any such (interim) motion, much less a motion that the Bill be taken into consideration or that it be referred to a Joint Committee of the two Houses or that it be circulated for eliciting public opinion, is a motion for which the Constitution 'provides' for any majority other than a majority of votes of the members present and voting." On the request of the Law Minister,<sup>32</sup> the matter was placed before the Rules Committee.

As to the meaning of the words "when the Bill is passed in each House", the Attorney-General who was invited to give

30. The Government faced the most embarrassing and awkward situation when it could not proceed with the Bill to amend Articles 3 of the Constitution in 1956 because the number of members actually voting for the reference to a joint Committee fell short of required absolute majority by four.

31. The motions for introduction, consideration, committing to Committees are all examples of interim motions.

32. Shri H. V. Pataskar, in his letter, dated the 23rd February, 1956 to Shri M. Ananthasayanam Ayyangar, Speaker Lok Sabha, raised the question.

his opinion, held that the expression "passed" had reference to the passing of the Bill at the final stage, and the expressions "the introduction of a Bill" and "when the Bill is passed" have to be understood in reference to the Practice and Procedure usual in Houses of Parliament, and though various clauses of a Bill may be voted upon at different stages and "passed", the Bill as a whole was "passed" only when voting takes place at the final stage, and this (the majority insisted upon by Article 368) is, therefore, applicable only to the voting at the final stage.<sup>34</sup> The Minister of Home Affairs, while agreeing with the views of the Minister of Legal Affairs and the Attorney-General stated that in the case of omnibus Bills, i.e. Bills which contained proposals for amendment of Articles of the Constitution on different subjects or aspects thereof, discretion might be vested in the Speaker to determine whether, when clauses were put to the vote, he should require that in view of the importance or other circumstances of the case, a particular clause or group of clauses should be adopted by a special majority so that there was no ambiguity as to the opinion of the members on the different provisions of the Bill. After hearing their views, the Committee took up the matter for consideration.

Some members of the Committee felt<sup>35</sup> that the essence of Article 368 was that no Bill seeking to amend the Constitution should be passed otherwise than by a special majority, and this meant that all effective processes leading to the passage of the Bill should be subject to this special majority. It was contended by some members of the Committee that the principle of the Bill should be accepted not by a simple majority but by a special majority as it was an important stage in the passage of the Bill. If the special majority was not forthcoming at that

33. Attorney-General's letter, dated the 18th May, 1951 to the Speaker. The Speaker desired to have his opinion on the question before the Rules Committee took it up.

34. The same view was reiterated by him in the meeting of the Rules Committee on the 17th April, 1956.

35. See the Second Report of the Rules Committee, 1956, paragraph 6.

stage, it was no use spending the time of the House in the subsequent stages and throwing out the Bill at the last stage. On the question of voting on different clauses of the Bill seeking to amend the Constitution, the Committee opined that if the voting by special majority was taken only at the last stage, "the position of the members would become anomalous". The votes would not reflect their true views on the different provisions. If a Bill contained provisions relating to a single Article of the Constitution or Articles which were closely related to, or inter-dependent upon each other, "there might be some justification for a vote by a special majority being taken at the last stage only and omitting this requirement on clauses". But in the case of Omnibus Bills, it is desirable to insist upon clear expression of the views of the House on different provisions of Bills separately. It is necessary that the various clauses of the Bill amending the Constitution should undergo all the Procedures prescribed by the Constitution. The Constitution is a sacred document which should not be amended so easily. There should be checks on the consideration of every clause of such Bills. The House must get the opportunity to pause at every stage and at every clause before giving its approval. The process of modifying the Constitution should be halting and before passing the clauses, the House should take stock of the situation and opinions of the people in the country. The fundamental law of the country should be amended with all caution and in accordance with the provisions of the Constitution. If a special majority was reserved only for the final stage of the passage of the Bill, it might well be that the whole consideration of the Bill and the clause by clause discussion would be concluded by the House in which only 50 members need be present and only 26 voting in favour.<sup>36</sup> Such a position, even theoretically, would run counter to the spirit and scheme of Article 368 of the Constitution.

The Committee decided that, instead of giving the discretion to the Speaker and placing the burden upon him to determine in each case how the voting should be taken, it was better

36. Quorum is 50 and majority of this would be only 26.

if it was clearly laid down in the Rules themselves that a special majority would be required on all clauses with a proviso that the Speaker might put a group of clauses together in order to save the time of the House. The Committee, however, held that no special majority for reference of the Bill seeking to amend the Constitution to the Select or Joint Committee should be insisted upon. As regards the motion for circulation of a Bill for eliciting public opinion, the Committee recommended that as the House was not committed to the principle of the Bill while voting on such a motion, insistence upon special majority was not necessary. The report was adopted by the House.

In their Eighth Report, the Committee took up the question of the effect of prorogation of the House on business then pending before the House or its Committees. It was contended that as under the Constitution "the powers of each of Parliament and the Committees of each House shall be such as may from time to time be defined by Parliament by law, and until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom",<sup>37</sup> and as Parliament had not passed any Act in the terms of Article 105<sup>3</sup> (3) of the Constitution, the practice on prorogation followed in the House of Commons, U.K. in this regard should prevail subject to the exception provided in Article 107 (3) of the Constitution.<sup>38</sup> The practice in the House of Commons is stated by May as follows : "The effect of a prorogation is at once to suspend all business until Parliament shall be summoned again. Not only are the sittings of Parliament at an end, but all proceedings pending at the time are quashed. Every Bill must, therefore, be renewed after a prorogation as if it had never been introduced"<sup>39</sup>. Accordingly it was argued that the Rules 318 and 319 (new Rules 335 and 336)<sup>40</sup> in so far as they detracted from the position stated above, were inconsistent with the

37. Article 105 (3). Shri H. V. Kamath raised the question.

38. A Bill pending shall not lapse on prorogation of the House.

39. May, *op. cit.*, 15th Edn. p. 32.

40. On the 20th July, 1956. Vide L. S. Deb. Part II. Cols. 420, 433-37.

Constitution. The matter was raised in Lok Sabha when a member objected to the resumption of further discussion on a resolution moved by another member in the last session. The Speaker while ruling to allow the discussion on the resolution to be resumed, observed that Article 107 (3) of the Constitution did not specially state that all items of pending business except Bills would lapse by reason of prorogation of the House.<sup>41</sup> Article 118 of the Constitution was independent of Article 105 (3) of the Constitution and the practice of the House of Commons, U.K. was accordingly not applicable when the Rules of Procedure of Lok Sabha framed under Article 118 of the Constitution, made specific provision in the matter.

Again the question of the effect of prorogation of the House on the functioning of the Select Committee was raised by a member in Lok Sabha on the 20th July, 1956. The Speaker observed that Article 107 (3) of the Constitution provided for all stages of the Bill including the Committee stage. A Committee of the House could deliberate on a Bill even when the House was prorogued, because prorogation had no effect on the pendency of a Bill.<sup>42</sup> After these rulings were given, the Speaker referred these matters to the Rules Committee.

On these two questions, the Attorney-General of India<sup>43</sup> was requested on behalf of the Committee to give his opinion. The Attorney-General held : "Article 105 (3) has no relevance to the question under consideration. The question raised related not to the powers, privileges and immunities of the House, but its Procedure and the Conduct of its Business which are matters dealt with in Article 118 (1) of the Constitution." As regards the second question regarding the Committees, the Attorney-General held that "there would seem to be nothing incongruous in the Committees functioning when the parent body is unable to function. The parent body would by

41. Vide his ruling at Appendix C of the 8th Report laid on the Table by Sardar Hukum Singh on the 19th March, 1957.

42. Vide the Ruling of the Speaker given on the 26th July, 1956.

43. On 10th April, 1956.

procedural rules authorise the Committees to function so that the power and the authority of the Committee to function will be derived from the parent body”.

The Rules Committee agreed with the view of the Attorney-General and recommended that the Rule may be amended to put the matter on a proper footing, “any business pending before a Parliamentary Committee of the House shall not lapse by reason only of the prorogation of the House and the Committee shall continue to function notwithstanding such prorogation”.<sup>44</sup>

## VI

The important Reports may be enough to indicate the quality of work done by the Rules Committee. The Committee is doing quite useful work. But a few improvement may be suggested here. The Committee's work is technical. The reports contain matters dealing with laws of Parliament. Attempts should be made to nominate members having long experience in the House and knowledge of law. Besides, the leaders belonging to different groups in the House, if they are not members, should be invited to attend the meetings of the Committee. Since we have suggested at various places that these leaders should be included in the Committees, they would not get much time to attend all the meetings. Therefore, it would be desirable that they should be empowered to nominate their members if necessary to the various Committees wherever they are taken as ex-officio members.

44. It now forms Rule 284 of the Rules of Procedure.

## CHAPTER XIII

### OTHER MINOR STANDING COMMITTEES

There are certain matters like the problem of their leave, stay, library facilities etc. which are necessary to enable the members to work efficiently, but which should not be allowed to encroach upon the time of the members, nor on the time of the House. Nevertheless these problems are basic and they cannot be neglected. The House has solved the problem by resorting to the appointment of various Standing Committees to look into the details of these matters and report to the House their findings. Many of them do not exist elsewhere. These Committees are not concerned with the will-forming activity of the House ; they may be called "House-keeping" Committees.<sup>1</sup>

#### Committee on Absence of Members from the Sittings of the House

The Constitution prescribes a condition that if for a period of sixty days member of either House of Parliament is without permission of the House absent from all meetings thereof, the House may declare his seat vacant.<sup>2</sup> In computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days. As the Committee say, "The duty of each member to the House is paramount"<sup>3</sup> and, moreover, continuous absence of a member for a long time deprives the people of his constituency of the benefit of representation in the House. In the past, absence of members for more than two months was seriously dealt with. The Governor-General had the power to declare seats of such members vacant.<sup>4</sup> But

1. Such Committees are : (a) Committee on Absence of Members ; (b) House Committee ; (c) Library Committee , (d) Committee on Salary and Allowances and (e) General Purposes Committee

2. Article 101 (4)

3. Vide their Fourth Report.

4 Indian Councils Act, 1861, Sec. 13. Indian Councils Act 1862, Sec. 4(1).

the Government of India Act, 1935 empowered the House to grant leave to the members.<sup>5</sup> Thus the members could remain absent with the permission of the House. The Constitution of India has simply adopted this principle.

Under the 1935 Act applications for leave were considered by the House itself. Prior to March 12, 1954 the same practice was also followed in Lok Sabha. There was no scrutiny of the applications for leave. The present practice since 1954 is that applications for leave are scrutinised by a Committee of the House, the Committee on Absence of Members, to which all applications for leave of absence, addressed in writing to the Speaker specifying the period for which leave of absence is required and the grounds for it, are referred. This Committee consists of fifteen members nominated by the Speaker and they hold office for a term not exceeding one year.<sup>6</sup>

The full functions of the Committee are as follows :

(a) to consider all applications from members for leave of absence from the sittings of the House ;

(b) to examine every case where a member has been absent for a period of sixty days or more, without permission, from the sittings of the House and to report whether the absence should be condoned or circumstances of the case justify that the House should declare the seat of the member vacant ; and

(c) to perform such other functions in respect of attendance of members in the House as may be assigned to it by the Speaker from time to time.

It is necessary here to examine whether the House has power to condone the absence of members under all circumstances. When a member remains absent for more than sixty days without permission of the House his seat should be automatically declared vacant. The Constitution prescribes only three stages to declare the seat of the absentee vacant : (a) absence for more than sixty days ; (b) absence without

5. Section 25(3),

6. Rule 325.

permission of the House ; and (c) House declaring the seat vacant.

In certain cases, members applied for leave of absence after the expiry of the period of sixty days of continuous absence without the permission of the House.<sup>7</sup> First two conditions were satisfied. But the House did not declare the seat vacant. Is it constitutional ?

After the expiry of the period of sixty days' absence, if a member applies for leave, has the House power to condone the absence ? On the face of it, it appears that the House is not competent to withhold declaration of the vacancy. After the fulfilment of the first two conditions, the third stage appears to follow. But the Constitution says that the House may declare the seat vacant. The word "may" leaves some discretion with the House. The House in exercise of this power does not declare the seat vacant in case it is satisfied that the absence could not have been avoided and early application for leave could not be sent by the member concerned. In such cases the House grants leave for the period with retrospective effect.<sup>8</sup>

But this practice is not a healthy one. It raises moral and constitutional issues. Morally, as pointed out by the Opposition, it is unfair to allow such an absentee member to draw his salary from the House—unfair to the tax-payer.<sup>9</sup> Constitutionally, when applications for leave of absence are not sent in time, the granting of leave after the expiry of sixty days of continuous absence, is wrong; the Committee lacks the power, as seen above. Hence the Committee has warned that unless applications for leave of absence were sent in time, there might be complications and the Committee might find it difficult to recommend condonation of the period of absence in such

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7. 13th Report of the Committee on Absence of Members submitted to the Lok Sabha on the 16th March, 1956.

8. Shri S. C. Choudhury was absent for the entire period of 7th session (9.2.59 to 8.5.59—89 days). He was granted leave for 59 days from 9.2.59 to 8.4.59.

9. House of the People Debates, Vol. II, 1954, col. 3841.

cases.<sup>10</sup> To help such (negligent ?) members, the Committee recommended that as soon as a member completed a period of forty days of continuous absence from the sittings of the House, he should be informed about it, so that he may apply for leave of absence in time, if he so desires.

The Committee has laid down the following principles for considering applications for leave of absence from members :<sup>11</sup>

1. Each application for leave of absence shall be considered on its own merits and after examination of the reasons advanced in the application ;

2. An application for leave of absence shall specify the definite period from what date to what date the leave is required and the reasons for which such leave is required ;

3. Leave of absence should be applied for in the first instance for a period not exceeding sixty days ; and

4. Whenever a member is continuously absent from the meetings of the House for a period of sixty days or more, without obtaining permission, a letter shall be addressed to him requesting him to state for the information of the Committee the reasons for such absence. On receipt of his reply, or after a reasonable time, the case will be considered by the Committee.

These working principles were adopted by the Committee at their first meeting and subsequently approved by the House.<sup>12</sup> The Rules provide that where the Committee recommends that leave of absence be granted to a member or the absence be condoned, as the case may be, "the pleasure of the House" shall be taken by the Speaker in the following terms on a day as soon as may be after the presentation of the report.<sup>13</sup>

"The Committee on Absence of Members from the Sittings of the House in its ... report has recommended that leave of absence be granted or absence be condoned (as the case may

10. 13th Report of the Committee on Absence of Members.

11. On the 18th March, 1954.

12. On the 25th March, 1954.

13. Rule 327.

be) in respect of Shri.....for the period indicated in the report. The member is being informed accordingly”

Where leave of absence is not recommended by the Committee in respect of any application, a motion is moved by any member that the House agrees or agrees with amendment or disagrees with the recommendations of the Committee in respect of that application.<sup>14</sup> As a matter of fact, the House concurs with the Committee's recommendations. The decision of the House on such a motion is communicated to the member concerned.

The Committee takes serious view when the absentee member gives inadequate reasons for his absence. It is the opinion of the Committee that no member should be absent without any ostensible reason. The Committee observed :<sup>15</sup> “the Committee consider that members should remain absent only when it is absolutely necessary and there are good reasons for doing so. It is absolutely necessary that in this, as in other matters, proper and healthy precedents should be established. The Committee, therefore, suggest that in future leave should not be recommended unless the reasons advanced in the applications are considered by the Committee to be proper.” The House adopted this suggestion without any modification.<sup>16</sup>

It may be mentioned here that the Committee has all the while upheld this principle that no leave be granted without adequate reasons being advanced in the application. Thus the Committee did not recommend leave of absence to Shri Sibnarayan Singh Mahapatra, a member of Lok Sabha, who was absent from the sittings of the House for over 600 days continuously. Moving the motion for the acceptance of the report,<sup>17</sup> the Chairman of the Committee stated that the member was granted leave by the House from time to time for long periods amounting in all to 484 days on the 7th March, 1956. On the 5th April, 1956, the member again sent an application asking for

14. Rule 328. See Sibnarayan Singh Mahapatra case discussed later.

15. Fourth Report presented to the Lok Sabha on the 13th September, 1954.

16. On the 15th September, 1954.

17. On the 4th December, 1956. The Report (18th) was presented to the Lok Sabha on the 3rd December, 1956.

leave for 83 days from the 8th March, 1956, giving the ground as "marriage in the family". The Committee in its sitting of the 3rd May, 1956 felt that "marriage in the family" was too vague and not a sufficient ground for granting such leave, and asked the member to explain further ; but no reply was received from him. The Committee, thereupon, brought to the notice of the member that no further leave could be granted to him and if he continued to remain absent for more than sixty days together, his seat was liable to be declared vacant. The member thereafter sent an application on the 7th November, 1956 stating that leave should be given to him for the whole period on the grounds of "ill-health and some domestic troubles". Finding the grounds unsatisfactory, the Committee recommended no further leave,<sup>18</sup> and the House agreeing with the Report, declared his seat vacant.<sup>19</sup>

The Rules provide that the Leader of the House should move the motion to declare a seat vacant under Article 101(4), but he can delegate this function to such other Member as he chooses.<sup>20</sup> The Rules also provide that if the motion declaring a seat vacant is carried, the Secretary of Lok Sabha shall cause the information to be published in the Gazette and forward a copy of the notification to the Election Commission for taking steps to fill the vacancy thus caused.<sup>21</sup>

The Committee, thus, has been effective. The following table taken as a sample case, shows that quite a number of members absent themselves from the House in almost all sessions :

Session (2nd Lok Sabha)	No. of applications for leave	No. of reports made	No. of cases where leave was refused
4th	42	3	Nil
5th	23	2	do
6th	19	2	do
7th	34	3	do
8th	11	2	do

18. At its meeting held on the 21st November, 1956.

19. On the 5th December, 1956.

20. Rule 241 (1).

21. Ibid (2)

Besides considering the applications for leave, the Committee also examines the list of members who are continuously absent from the sittings of the House for 15 days or more during the session. Then it informs the persons concerned to apply for leave.

It may be noted that the pleasure of the House is signified on the recommendations of the Committee by adopting the reports of the Committee. The Committee has been most helpful to the House thus in saving the time of the House.

### House Committee

There is a Committee constituted every year by Lok Sabha to consider and advise upon all matters connected with the comfort and convenience of members such as allotment of residential accommodation and provision of other allied facilities to members of Lok Sabha during their stay in Delhi. It is called the House Committee. It was first appointed on 26th May 1952.

It consists of twelve members including the Chairman.<sup>22</sup> The members are nominated by the Speaker and hold office for a term not exceeding one year. There is no bar to renominate a member to the new Committee. The quorum to constitute a sitting of the Committee is five. Besides dealing with all questions relating to residential accommodation for members of Lok Sabha, the functions of the Committee extend to the exercise of supervision over facilities for accommodation, food, medical aid and other amenities including additions and alterations in member's residences, sub-letting etc. In all these cases, the Committee acts only as an advisory body,<sup>23</sup> advising the Speaker from time to time.

There is also an Accommodation sub-Committee consisting of not more than four members including the Chairman of the House Committee who shall be the ex-officio Chairman of the sub-Committee.<sup>24</sup> The members of the sub-Committee are

22. Appendix II, Rules of Procedure and Conduct of Business in Lok Sabha (5th Ed ), p. 182.

23. Rule 3(2) Appendix II, p. 182.

24. Rule 4 of the Rules of House Committee, Lok Sabha.

nominated by the Chairman of the House Committee from amongst the members of the Committee. The quorum to constitute a sitting of the sub-Committee is two. The sub-Committee is to advise on the allotment of residential accommodation to members. It considers requests from members for allotment and change of accommodation and matters allied therewith.

The Committee has the power under the Rules of the House to appoint one or more sub-Committees each having powers of the undivided Committee to examine any special points relating to residential accommodation, food, medical aid, and other amenities in member's residences.<sup>25</sup> Reports of such sub-Committees are submitted to the Whole Committee and the Whole Committee approves the reports of the sub-Committees.

There is also a Joint Committee to consider all matters of common interest relating to accommodation and other amenities to members of both the Houses of Parliament consisting of the Chairmen of the House Committees of both Houses of Parliament.

The House Committee functions as any other Committee of the House. The Committee invites representatives of the Ministries of Works, Housing and Supply, Finance and Central Public Works Department to attend the sittings of the Committee to give evidence, if necessary.

A few examples from the recommendations of the Committee made in different reports would indicate the nature of its work. On 1st March, 1958 the Committee recommended that the requests from members for change of accommodation should be considered after meeting the demands of those members who were either without any accommodation or were residing in hostels. It also recommended<sup>26</sup> that such articles of furniture in the suites in the Western court Hostel allotted to members which required replacement should be replaced. No bungalow in or about the members' residential localities

25. Rule 5(1) of the Rules of House Committee.

26. On March 1, 1958.

should be allotted by the Estate office to anybody without the information of the Committee.

The Joint Committee of Chairmen of the House Committees of both the Houses made also recommendations regarding housing during the various sessions. Some of their recommendations may be taken for illustration. The Joint Committee recommended that a billiards room should be constructed adjoining the M.P.'s Common Hall at North Avenue. It also recommended that for hygienic reasons no new dhobi ghats should be provided in close proximity to the North and South Avenues. Any appeal against the decision of the Committee lies with the Speaker whose decision is final.<sup>27</sup>

Since the Committee deals with problems which are not directly related to the citizens, its existence is not much felt by the public. Though it is a very minor Committee without having any substantial influence on the working of the House excepting saving its time, the Committee has been doing useful work for the members of the House.

### Library Committee

There is a Library Committee consisting of the Deputy Speaker and eight other members, five from Lok Sabha and three from Rajya Sabha. It was first constituted on 19th November, 1952. The Committee is appointed by the Speaker but in the case of the members from Rajya Sabha, the Speaker consults the Chairman of Rajya Sabha before such appointments are made.<sup>28</sup> The Deputy Speaker is the ex-officio Chairman of the Committee. Casual vacancies in the Committee are filled by nomination by the Speaker and in respect of members from Rajya Sabha, after consultation with the Chairman of Rajya Sabha.

The functions of the Committee are :

(a) to consider and advise on such matters concerning the Library as may be referred to it by the Speaker from time to time ;

27. Rule 8 of the Rules of the House Committee.

28. Rule 1, Rules of Library Committee. See Appendix II, Rules of Procedure of Lok Sabha (5th Edn.), p. 185.

(b) to consider suggestions for the improvement of the Library ; and

(c) to assist members of Parliament in fully utilising the services provided by the Library.

The Committee is to help members in the use of the material available in Parliament Library and of the services of the staff provided therein. The Committee acts, in a way, as a liaison between the members of Parliament and the Library. The Committee also encourages members to make helpful and constructive suggestions for the development of the Library and its Reference Services. It advises the Speaker on all matters pertaining to the Library, e.g. selection of books, framing of Library rules, future planning etc.

Normally, there is one sitting of the Library Committee during each session.<sup>29</sup> The Committee is of considerable importance to the members of the House and to others also<sup>30</sup> who are interested in making use of it. However, the Committee has been helpful to the House in the sense that it saves the time of the House which otherwise the House or Speaker would have spent for discussing even small things relating to Library facilities in the Parliament.

### General Purposes Committee

Lok Sabha has appointed many Committees to assist it in many ways, but there are still many things that do not fall under the jurisdiction of any Committee. Generally such matters fall on the shoulders of the Speaker who, with a view to having continuous consultations with the leaders and representatives of the various parties and groups in regard to the various directions in which the work of the House could be improved or organised on better lines, has constituted a Committee called the General Purposes Committee. It was first appointed on 26th November, 1954. It consists of the Speaker as the ex-officio Chairman, the Deputy Speaker, members of the Panel of Chairmen, Chairmen of all Standing

29. First Parliament : A souvenir, p. 97.

30. The Library also allows bonafide research scholars to make use of its books.

Parliamentary Committees of Lok Sabha, Leaders of all recognised parties and groups in Lok Sabha and such other members as may be nominated by the Speaker.<sup>31</sup> The total membership of the Committee is fixed at present at 20.

The functions of the General Purposes Committee are generally to advise the Speaker on matters not appropriately falling within the purview of any other Parliamentary Committee, which he places before them from time to time. There are thus no hard and fast terms of reference to the Committee and its scope is left to be settled by a process of evolution in the light of experience gained from time to time. According to the Speaker, the purposes of the Committee is primarily to give an opportunity to the House through the Committee to express their feelings on a particular matter before a decision was taken by him—the discussions in the Committee could provide a background on which the decisions of the Speaker could be based, so that such decisions could eventually command general acceptance.<sup>32</sup>

The Committee has considered various matters which *inter alia* included duration of sittings of the House, adjournment of the House on the death of a sitting member, automatic voting system for the House, holidays to be observed by Lok Sabha and arrangements for proper and speedy printing of Parliamentary papers, additional building requirements for the rapidly increasing Parliamentary activities, club for the members etc.<sup>33</sup>

The Committee does not present any Reports to the House or to the Speaker, who is himself the Chairman of the Committee. A record of minutes is kept and circulated to the members of the House.

The Committee has the power to appoint sub-Committees as and when necessary for detailed examination of any matter

31. Rule 1 of the General Purposes Committee (Appendix II, L.S. Rules of Procedure, p. 181).

32. Speaker's statement at the first sitting of the General Purposes Committee held on the 26th November, 1954.

33. Journal of Parliamentary Information, Vol. III (October, 1957), No.2.

placed before it and a sub-Committee presents its report to the Whole Committee. During the life-time of the first Lok Sabha five sub-Committees of the General Purposes Committee were appointed to consider questions of duration of the sittings of the House, adjournment of sittings of the House, adjournment of sittings of the House on the demise of a member, ex-member or an outstanding personality, printing of Parliamentary papers, proposal for constructing a new building for the Constitution Club and maintenance of Parliamentary buildings and staff of the Lok Sabha Secretariat.

The General Purposes Committee thus is charged with matters relating to improvement and organisation of the work of the House and it has caused many improvements like installation of the automatic voting system, construction of additional buildings and expediting the printing of Parliamentary papers. It recommended that a separate "Parliamentary paper store-room" in the Parliamentary wing of the Government of India Press, New Delhi, under the administrative control of the Speaker should be kept apart. The Committee has been very much effective in this respect.

### **Joint Committee on Salaries and Allowances of Members of Parliament**

The work of the Parliament will greatly suffer if members are left to themselves to find out a source of income for their maintenance. A member should not be asked to spend from his own pocket while in Delhi to discharge public duty in attending the sittings of the House and Committees thereof. Therefore the Constitution provides that the members of either House of Parliament shall be entitled to receive such salaries and allowances as may from time to time be determined by Parliament by law. Now the salaries and allowances of members are regulated under the Salaries and Allowances of Members of Parliament Act, 1954.

Both the Houses of Parliament have appointed a Joint Committee to regulate the payment of the salary, daily allowances and travelling allowances under the Act. The Joint Committee is known as the Joint Committee on Salaries and Allowances of Members of Parliament. It was first constituted on 1st June, 1954. It consists of fifteen members, ten from Lok Sabha nominated by the Speaker and five from Rajya Sabha nominated the Chairman of Rajya Sabha. The term of office of the Joint Committee is one year and casual vacancies occurring in the Committee during the year are filled by the Presiding Officers of the respective Houses.

Let us now understand the nature and functions of the Committee from one or two illustrations. The Committee once considered a proposal for the payment of T.A. to a member for the journey by sea or river performed in a steam launch or a vessel other than a steamer.<sup>35</sup> The Committee decided that Salary and Allowances of Members of Parliament Act, 1954 might be amended to cover journeys performed in a steam launch or a vessel other than a steamer. The Committee also decided that the number of local telephone calls admissible free of charge to a person who ceases to be a member during the course of a year should be calculated at the rate of 150 calls per month for the period of membership. A proposal for extending the Contributory Health Service scheme to members of Parliament was approved by the Committee, subject to the payment of Rs. 5/- per month. The Committee besides considering various proposals in connection with the T.A. and D.A., also suggests certain amendments to the Members of Parliament (T.A./D.A.) Rules, 1957. The Committee considered also the proposal regarding reduction of the house rent payable by Members of Parliament for the period of the recess of Parliament but decided not to press for reduction. The Committee considered a proposal of making provision of a free telephone at the permanent place of residence of members, and did not agree to extend the concession of free telephones and calls at places outside Delhi and New

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35. On the 24th March, 1958 and the 7th May, 1958.

Delhi. It was submitted to the Committee that free posta service for members for official correspondence should be provided, but the Committee did not favour the idea. The Committee unanimously decided that all outstanding dues of Government should be recovered from the salary bills of members under intimation to the member concerned, and that no change in the existing rules was necessary. There was a suggestion that Rules should be framed for the compulsory attendance of members in the Houses of Parliament. The Committee did not favour<sup>36</sup> the idea. The Committee also interprets the Rules relating to the allowances and other facilities. It has been a great asset in saving much time of the House and in providing certain facilities to members.

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36. On the 20th December, 1958

## CHAPTER XIV

### SELECT COMMITTEES AND JOINT COMMITTEES

#### I

A busy House burdened with numerous Bills of a variety of nature, may find it difficult to thrash out all its details all by itself. Besides, the technicalities of a legislative measure can be better considered and attended to in a smaller body than in the whole House. Further, by taking up the task to see through the details of all the Bills itself, the House can attend to at best one Bill at a time ; but by the use of the Select Committee it would be able to work out and consider details of several Bills at the same time. Two types of such ad hoc Committees are used by Lok Sabha. They are Select Committee and Joint Committee. Let us take Select Committee first.

Numerically Select Committees form the largest among the Committees of the House. They are a special part of the mechanism of the House which is set in motion for the study of a subject and the devising of plans for its treatment. Such Committees are indirect aids, inasmuch as they arrange the material upon which legislative decisions are eventually based, and they help to focus the ideas of the House upon matters of principle or to work out the technical details of the legislative course of action the principle of which has been accepted.<sup>1</sup> Therefore, it is defined that "A Select Committee is composed of certain members appointed by the House to consider or to take evidence, upon any Bill or matter and to report their opinion for the information and assistance of the House."<sup>2</sup> Their distinguishing marks are their "ad hoc nature and narrowness of field".<sup>3</sup>

The function of a Select Committee on a Bill is to go through the text of the Bill clause by clause, and word by

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1. Redlich, *op. cit.*, Vol. II, p. 187.

2. *Ibid.*, p. 189.

3. Robert MacGregor Dawson, *Government of Canada*, 1952, p. 413.

word, if necessary, with a view to making such amendments in it as may seem likely to render it more generally acceptable. In doing so it is limited in various ways. In the first place, it is bound by the decision of the House, given on second reading, in favour of the principle of the Bill. It should not, therefore, amend the Bill in a manner destructive of its principle. It should be noted that the effect of this rule is now only to disallow amendments which are contrary to the principle of the Bill. Secondly, it should not admit amendments which are irrelevant to the Bill.

## II

In England, all public Bills, on being read a second time, stand committed with certain exceptions, to a Standing Committee.<sup>4</sup> Excepting in the case of the Standing Committee on Scottish Bills, they have no names, but are distinguished by the letters of the alphabet, A, B, C, D, and E.<sup>5</sup> These Standing Committees consist of not less than thirty nor more than fifty members nominated by the Committee of Selection. The Scottish Standing Committee consists of all the members from Scottish constituencies and some additional members nominated by the Committee of Selection. The Chairman of a Standing Committee is appointed by Mr. Speaker from a body called the Chairman's Panel which consists of not less than ten members who are nominated by My Speaker. The function of such Standing Committees is to consider and amend Public Bills. Which Bill shall go to which Standing Committee is a question that is decided by the Speaker.<sup>6</sup> The power of a Committee to destroy a Bill is more limited in form than in fact. The Committee cannot defeat a Bill. But it can take action which indirectly brings about that result.

It may be noted here that in England a Public Bill may be also referred to another body called Select Committee. "The

4. Standing Order No. 38.

5. *Campion*, op. cit., pp. 238—239.

6. S. O. No. 57(2).

Bill undergoes at the hands of the Committee what is called 'a preliminary committee stage'. The Committee reports the Bill back to the House with or without amendment. A Bill reported from a Select Committee is by practice recommitted to a Committee of the Whole House".<sup>7</sup> The Select Committee is generally nominated at the same time as it is appointed on a motion. The motion for nomination may be combined with a motion to empower the Committee to call for persons, and records and to fix the quorum. A Select Committee normally consists of fifteen members. The member proposing the names ascertains in advance the consent of the proposed nominees.<sup>8</sup> The Chairman of a Select Committee is elected by its members though it is often arranged beforehand. The Committee takes evidence and keeps its minutes. The report is presented to the House at the conclusion of its labours.

Thus it may be seen that in England two types of Committees attend to Public Bills. In the United States, the Standing Committees receive the Bills as soon as the first reading is over. Their system is so different that they have no parlance with that of ours. The use of Select Committee, that is of the second type, has been adopted in India to consider Bills at the committee stage.

### III

In India as soon as a Bill is introduced, its first reading is over. The second reading is divided into two stages. The first stage consists of a general discussion of the principles of the Bill. The second stage relates to the discussion of clauses, schedules and amendments. The third reading is confined to the passing or rejection of the Bill as a whole. During the first stage of the second reading, the member-in-charge of the Bill may move that the Bill be taken into consideration or be circulated for the purpose of eliciting public opinion thereon, or be referred to a Select Committee of the House or a Joint

7. *Campion op. cit.*, p. 249.

8. S. O. 67.

Committee of the Houses.<sup>9</sup> The member-in-charge of the Bill who moves the motion explains the purpose and object of the Bill, gives the background of the Bill and makes available all the information as may be necessary for the understanding of the provisions of the Bill. The discussion in the House at this stage on this motion is confined to the principles and broad features of the Bill. At this stage no amendment to the Bill is moved. If the motion "that the Bill be referred to a Select Committee" is carried, the principle of the Bill is deemed to have been accepted and affirmed by the House.<sup>10</sup> The House thereafter, though not the individual members, stands committed to the principle of the Bill.

The practice of referring a Bill to a Select Committee in India has been followed since 1854. In the Legislative Council (1854-61) every Bill, read a second time, used to be referred to a Select Committee upon a motion made.<sup>11</sup> The first ever such motion was made on June 17, 1854, when it was moved that the Bill "for the management of the Post Office and for the regulation of the duties of Postage" be referred to a Select Committee.<sup>12</sup> The Legislative Council (1862-1920) also followed the practice. Even Bills of a simple nature were used to be referred to a Select Committee. The object was that their consideration by a Select Committee might suggest improvements which might have been overlooked. The Rules of the Legislative Assembly and succeeding Legislatures have provided for a motion being made, by the member-in-charge of a Bill, for the Bill being referred to a Select Committee.<sup>13</sup> The Lok Sabha Rules provide that when a Bill is introduced, on some subsequent occasion, the member-in-charge of the Bill

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9. S. L. Shakhder, *The Process of Legislation, Indian Parliament*, ed. by A. B. Lal, pp. 106—107.

10. *Legislative Assembly Debates*, Vol. (1), 1925, Col. 745.

11. See S. S. More, *op. cit.*, pp. 374—375, for details.

12. *Legislative Council Proceedings (1854—55)*, Vol. (1), Col. 38.

13. *Legislative Assembly, Standing Order No. 38 (1)(b)* as published in December, 1920. See also *Rules of the Provisional Parliament, February 14, 1950*.

may make one such motion<sup>14</sup> in regard to his Bill, as stated above.

The members of a Select Committee on a Bill are appointed by the House when a motion that the Bill be referred to a Select Committee is made.<sup>15</sup> As a matter of policy, a Select Committee should not be large and should consist only of those who are willing to serve on it. A Select Committee should represent all the important Sections in the House,<sup>16</sup> so that its opinion would carry as great a weight as possible. Such a Committee should represent both sides of a question, policy being accepted, where there is a clear division on other matters in the Bill, as the Committee otherwise will be subject to charges of bias if any important faction is not represented.

Again, the ordinary practice is that a member who has made any special study of the subject matter of the Bill is taken as a member of the Committee. As the Speaker ruled, "On behalf of the Government and the mover of the Bill every attempt must be made to see that persons who have some special knowledge or who have taken interest in such matters must as far as possible be co-opted".<sup>17</sup> It may be observed here that the different whips of the parties in the House are ordinarily consulted before the list of names is prepared. The members of the party are expected to indicate their preference and interest to their party whips. It is otherwise not practicable for the mover to know the names of the members who have made a special study or possessed adequate knowledge of the subject.

As a rule any motion for the appointment of a Select Committee should be accompanied by a statement of the names of members proposed to be appointed, and the mover of such a motion should inform the House that he has the

14. Rule 74.

15. Rule 298.

16. The Speaker observed that "A Select Committee normally must be as representative as possible". H. P. Deb, Part II, 8th December, 1953, Col. 1669.

17. Parl. Deb. 8th May, 1951, cc. 8296—97.

authority of those gentlemen for so proposing their names.<sup>18</sup> Consent of members proposed for Select Committees should not be presumed and must be expressly obtained. Such a decision was also taken by the Speaker as early as on the 12th February, 1951. On the 12th February, 1951 Shri H. V. Kamath moved a motion that the Preventive Detention (Amendment) Bill, 1951 be referred to a Select Committee consisting of certain Members including Shri Venkantaraman. The latter objecting to his name being included on the ground that Shri Kamath had not obtained his previous consent, the Chair ruled that "normally the consent of the hon'ble members must be taken".<sup>19</sup> The ruling was reiterated in 1956.<sup>20</sup>

Not only the previous consent of the members proposed for the Select Committee should be obtained but the Chair also expects that their names should be given to the Speaker in advance.<sup>21</sup> On the 21st November, 1953 when a motion for consideration of the Banking Companies (Amendment) Bill was moved, Shri M. S. Gurupadaswamy informed the Chair that he had given notice of an amendment for reference of the Bill to a Select Committee. On finding that Shri Gurupadaswamy was not ready with the names of members to serve on the proposed Select Committee, the Deputy Speaker who was in the Chair made the following observations: "It is a rule to be hereafter observed by every hon'ble Member that if he has a motion for reference to a Select Committee, he must give the list of names in advance to the Secretary and also, he must have ascertained the consent of those Members to serve on the Committee".<sup>22</sup> He made it clear that<sup>23</sup> he must have a copy of those names so that he may place it before the House.

18. L. A. Deb, 22nd February, 1921, p. 332. It still holds good.

19. On 12th February, 1951. C. 2714

20. This was when Pandit Thakurdas Bhargava included the name of a Minister without the latter's consent. The Speaker ruled: "I do not think that the consent should be presumed. The rule is clear that consent should first be obtained". Lok Sabha Debate, Part II, 28th November, 1954, Col. 1064.

21. Lok Sabha Debate, Part II, 16th November, 1954, Col. 19.

22. H. P. Deb., Part II, 21st November, 1954, Col. 426.

23. H. P. Deb., Part II, 8th December, 1953, Col. 1669.

One important point regarding the composition of the Select Committee may be mentioned here, that it should include Members from as many States as possible. On the 12th March, 1955 during the discussion on the motion for consideration of the Medicinal and Toilet Preparation (Excise Duties) Bill, a Member (Shri G. L. Bansal) moved an amendment for reference of the Bill to a Select Committee of only nine Members. The Deputy Speaker who was in the Chair pointed out that certain States had not been represented on the Select Committee, and observed: "Whenever there is a motion for reference to a Select Committee, it is intended that hon'ble Members from different parts may be on the Committee so that their experience may be available and the peculiar circumstances regarding any State may be known."<sup>24</sup>

Another important point to be noted here is that once the motion to refer a Bill to a Select Committee is carried, further names cannot be added after the original motion is put.<sup>25</sup> When additional names are proposed, the procedure is to move an amendment to the motion which seeks the Bill to be referred to the Select Committee.<sup>26</sup>

It is the practice that the member moving a motion for the appointment of a Select Committee is included in the list of members of the Select Committee. But such inclusion is not absolutely necessary. On the 4th May, 1954, Pandit Thakur Das Bhargava moved an amendment for reference to the Code of Criminal Procedure (Amendment) Bill to a Select Committee, and the list of names proposed by him for the Select Committee did not include his name in the list of members. Thereupon the Deputy Speaker who was in the Chair observed: "I do not find any point of order in a Member making a motion for Selection Committee not himself being there. No Rule says that".<sup>27</sup>

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24. L. S. Deb, Part II, 12th March, 1955, C. 1861.

25. L. A. Deb, 23rd September 1932, p. 1285.

26. L. S. Deb, Part II, 25th August, 1956, Cols. 4400—01.

27. L. S. Deb, Part II, 4th May, 1954, Col. 6479.

When a motion is moved to refer a Bill to a Select Committee, the member who has agreed to his inclusion in the Committee, is not entitled to speak on an amendment to the motion tabled by him earlier. On the 4th May, 1954, after the motion for reference of the Code of Criminal Procedure (Amendment) Bill to a Joint Committee was moved, a member (Shri Vallatharas) whose name had been proposed for the said Committee, requested the Chair to allow him to speak on the ground that he had moved earlier an amendment to the motion that the Bill be circulated for the purpose of eliciting public opinion. Rejecting the request, the Speaker observed : "After the amendment was tabled or notice thereof was given, he has accepted the membership of the Select Committee. Though his amendment is now before the House, I do not think, that in view of the conventions, he will press his desire to speak on the Bill as he will have ample opportunities to speak in the Select Committee .. No member is put in the Select Committee without his consent. The member has to choose as to whether he would prefer to speak or prefer to be on the Select Committee. In this particular case the hon ble Member has preferred to be on the Select Committee."<sup>28</sup>

The Rules provide that members who are not members of the Select Committee, may be present during the deliberations of the Committee but shall not address the Committee nor sit in the body of the Committee.<sup>29</sup> There is no bar to a minister, however, with the permission of the Chairman, to address the Committee of which he may not be a member. This rule is a clear departure from earlier practice. Earlier, members who were not members of the Select Committee were allowed to send their suggestions to the Select Committee and to speak there but they were not given the right to vote. The following incident would explain the point. On the 8th May, 1951, immediately after the House adopted the motion that the Tariff Commission Bill be referred to a Select Committee comprising of certain members, a member of the House

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28. I. S. Deb, Part II, 5th May, 1954, Cols. 6570—71

29. Rule 299.

(Shri Ramaswamy Naidu) requested that in view of the fact that the Speaker had stated that the members who were interested in the Bill could also attend the meetings of the Select Committee, the meetings be convened when Parliament was sitting so that other members too might be able to attend the meetings thereof. The Deputy Speaker who was in the Chair observed<sup>80</sup> :

"If that is possible it will be done ; otherwise it has also to be done between the two sessions. After all, this does not contain more than a few clauses and some of them alone are controversial and others are all procedural matters which are not of very great importance. I would only suggest that Hon'ble Members will put down their suggestions and send them to the hon'ble Minister or to the Secretary of the Parliament and he will forward them to the various members for consideration. If the Parliament is in session, certainly all hon'ble Members can come and make their suggestions to the Select Committee".

If the Select Committee is to work as the miniature House and would seek to reflect the opinion of the House, it is desirable to allow all members interested in the matter under consideration of the Select Committee to attend the meetings of the Committee and speak on the points they propose to bring to the notice of the Committee. If witnesses could be invited and they could speak to the Committee there is no ostensible reason why Members of the House should not be allowed to speak there with the permission of the Chairman of the Committee. It is, therefore, desirable to amend the rule in order to enable the members of the House to place their views before the Committee either verbally or in writing. It would not cause any dislocation to the work of the Committee or the House. It may be apprehended that the Committee may be converted into the House itself. But they may be allowed in batches if all of them would like to come, which is very unlikely to happen.

After the motion to refer the Bill to a Select Committee is carried, the Speaker appoints one of the members of the Select Committee as its Chairman.<sup>31</sup> If the Deputy Speaker is a member of the Committee he becomes the Chairman of the Committee automatically. If the Chairman is for any reason unable to act, the Speaker may appoint another Chairman in his place. If the Chairman is absent from any sitting, the Committee shall choose another member to act as Chairman for that sitting.

#### IV

The procedure of the Select Committee shall, as far as practicable, be the same as is followed in the House during the consideration of a Bill.<sup>32</sup> The Speaker may give any instruction with regard to the procedure as deemed necessary from time to time.

When a Bill has been referred to a Select Committee, all notice given by members shall stand referred to the Committee provided that where such notice of amendment is from a member who is not a member of the Select Committee such amendment shall not be taken up by the Committee unless moved by a member of the Committee.<sup>33</sup>

Further, the Rules provide that a Select Committee may hear expert evidence and representatives of special interests affected by the measure.<sup>34</sup> If the interested parties are allowed to submit their views to the Committee, there is no justification why a member of Lok Sabha, who is not a member of the Committee, should not be permitted to submit amendments to the Committee.

If a member wants to move amendments at a sitting of a Select Committee, he shall send, one day in advance, a copy of the notice of such amendments to the Lok Sabha Secretariat.

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31. Rule 258

32. Rule 300(2).

33. Rule 301.

34. Rule 302.

Copies of the amendments shall be circulated by the Lok Sabha Secretariat to all members of the Select Committee to facilitate discussion at the sittings of the Select Committee. If any question arises whether a particular amendment is within the scope of the Bill, the question shall be decided by the Chairman of the Select Committee whose decision shall be final.<sup>35</sup> It may also be noted that when any memorandum or representation addressed to a Select Committee on a Bill is received in the Lok Sabha Secretariat at any time after the Committee has met, it shall form part of the records of the Committee and no person shall, without the Speaker's permission, quote therefrom or send copies thereof to any one else, unless it has been presented to the House either along with the report of the Committee or separately.

If notice of a proposed amendment has not been given before the day on which the Bill is taken up by the Select Committee, any member may object to the moving of the amendment and such objection shall prevail unless the Chairman allows the amendment to be moved.<sup>36</sup>

The Select Committee enjoys certain powers similar to those enjoyed by Committees in General. It can employ any sub-Committee, it can summon witnesses and examine them and it can call for records and written materials from any source subject to the Rules of the House, and it possesses the right to punish through the House for contempt of itself. The general Directions of the Speaker applicable to Parliamentary Committees, give many more powers to the Select Committee.

As regards the scope of discussion in the Select Committee, the Speaker has issued a direction that the principle of the Bill having been accepted by the House by adoption of the motion for reference of the Bill to the Select Committee, further general discussion on the Bill as a whole shall not be permissible in the Committee.<sup>37</sup> The Committee shall confine itself

35. Speaker's Direction No. 75.

36. Rule 300.

37. Speaker's Direction No. 76.

to see if the clauses of the Bill could cover the intention of the Bill clearly and adequately. If, in its opinion, the wording is defective or the intention is not clearly expressed or the language is ambiguous in some material respects, the Select Committee can propose amendments or revision of the clauses. Such amendments or modifications or revisions must be in conformity with the principles of the Bill to which the House has already agreed.<sup>38</sup>

The Chairman shall ordinarily put the Bill before the Select Committee, clause by clause and invite members to offer their comments, if any, and thereafter the members may move their amendments, if any.

Unless otherwise specifically directed by the House, the meetings of Select Committee should be held within the precincts of the House. The sittings of the Select Committee should be private and no strangers or representatives of the press, subject to the rules and practice, can ordinarily be admitted to the meetings of the Committee.

All petitions on Bills which are received in the Lok Sabha Secretariat and are considered as admissible under the Rules, shall stand referred to the Select Committee.<sup>39</sup> Such petitions may be examined by the Committee which may also give a hearing to such petitioners if deemed necessary. Details regarding the petitions on the Bills have been discussed in the Chapter dealing with the Committee on Petitions. It has been the standing direction that where any petition, representation or memorandum is received by the Select Committee, the report of the Committee shall state the number of such documents received and shall also attach an appendix giving briefly the particulars thereof and action taken thereon.

As soon as may be, after a Bill has been referred to a Select Committee, the Select Committee shall meet from time to time in accordance with the Rule to consider the Bill and shall make a report thereon within the time fixed by the House.<sup>40</sup>

38. S. L. Shakdher, op. cit., pp. 112—113.

39. Speaker's Direction No. 82.

40. Rule 303(1).

Normally the motion which creates the Select Committee includes a provision directing the Committee to submit its report by a certain date. Where the House has not fixed any such time the report shall be presented before the expiry of three months from the date on which the House adopted the motion for the reference of the Bill to the Select Committee.<sup>41</sup>

## V

After the clause by clause consideration of the Bill is over, the Chairman shall fix a sitting of the Select Committee for the purpose of considering the draft report and the Bill as amended.

Whenever the progress of the Select Committee in regard to the Bill before it is such that there is a likelihood of there being delay in the presentation of the report to the House, the matter shall be brought to the notice of the Speaker as soon as it becomes clear to the Chairman that such delay is likely to occur. The Chairman shall briefly state the circumstances which are responsible for such delay, his estimate of the time that it would take to complete the work and any other matter which in his opinion should be brought to the notice of the Speaker. The Chairman or in his absence any member of the Committee shall, if so authorised by the Committee and after informing the Speaker, move the House for extension of time for the presentation of the report to a definite date which shall be specified in the motion ; and the House may direct that the time be extended to date specified in the motion.<sup>42</sup> The date up to which the time of presentation of the report is sought to be extended may be specified on the reasonable presumption that the House might be in session on the date so specified, and the report shall be submitted to the Speaker on or before that date as the Committee may decide and the Speaker shall cause it to be laid before the House as early as possible after the House reassembles.

Unless the Speaker otherwise directs, the report of a Select

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41. Ibid.

42. Rule 303 (1) ( Proviso No. 2).

Committee on a Bill shall have introductory paragraph as given below with such changes as may be necessary in the light of the facts of each case :<sup>43</sup>

1. The Chairman of the Select Committee to which the Bill ( published in Part II—Section 2 of the Gazette of India Extraordinary, dated the.....(date).....(here insert the long title of the Bill) was referred, having been authorised to submit the report, on their behalf, present their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the.....(date). The motion for reference of the Bill to a Select Committee of the Houses ( Motions to be given as appendix to the Report ) was moved by Shri ... .. (name) on the... ..(date).

3. The Committee held.....(number) sittings in all.

4. The first sitting of the Committee was held on the.....(date) to draw up a programme of work. The Committee at this sitting decided to hear evidence of associations which might make a request to that effect by the .. (dated). The Committee also decided to visit .. . (place) on the .....(dates) in order to.....(purpose of the visit).

5. The Committee accordingly visited .. ..(centres visited) on the.....(dates).

6. The Committee heard the evidence tendered by the representatives of the following associations on the dates noted against each :—

(1)

(2)

(3)

etc. etc.

7. The Committee considered the Bill clause by clause at the sittings held on the .....(dates).

8. The Committee appointed on the.....(date) a sub-committee consisting of.....(number) members to consider.....(object). The Report of the sub-committee was presented to the Committee on the.....(date) (Report to be given as appendix).

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43. Speaker has prescribed these introductory paragraphs to be added to all reports.

9. The Report of the Select Committee was to be presented by the.....(date). The Committee were granted extension of time on the.....(date) up to the.....(date). (In the case of two or more extensions) the Committee were granted extension of time (twice or thrice etc.) The first time on the..... (date) up to the.....(date) and subsequently on the.....(date) up to the.....(date).

10. The Committee considered and adopted the Report on the..... (date).

11. The observations of the Committee, with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

There are certain limitations on the scope of recommendations by the Select Committee. First, the recommendations of Select Committee cannot be absolutely foreign to the scope of the Bill. This has been upheld by the Speaker. For instance, when the motion for reference of the Reserve Bank of India (Amendment) Bill 1950 to a Select Committee was under discussion, Shri B. L. Sondhi asked the Chair whether the members of the Select Committee could make a recommendation to the House along with the Bill for making certain amendments to the Imperial Bank Act. The Deputy Speaker who was in the Chair observed as follows :<sup>44</sup>

"I am certain in my mind that whatever is not the legitimate object of this Bill is not germane to the issue and cannot be gone into the Select Committee. It is not as if the whole scheme of the Act—the original Reserve Bank Act—is thrown open. This is only an amending Bill in so far as certain Sections are concerned. For instance, in Section 17 some clauses are being touched or are being modified in this Bill. There is Section 54 relating to agricultural credit ; then there may be similar provisions relating to the same matters or ancillary or auxiliary matters or which may be consequential, though they may not be the subject matter of this Bill—they may also be touched upon. Otherwise, on principle, whatever

is not taken in the amending Bill cannot be introduced even in a side-way. It is open to the Select Committee to make certain recommendations but not absolutely foreign to the scope of the amending Bill".<sup>45</sup>

Thus the general practice is not to recommend anything not touched upon by the measure under consideration. But it is to be considered if the Select Committee could make any recommendation for any consequential, incidental or ancillary change in such Acts as may be considered necessary by the Committee. The provision of the Bill under consideration may necessitate some incidental changes in another Act. There would be no harm if the Select Committee would bring such cases to the notice of the House and recommend the line of action thereon.

Another limitation on the scope of recommendations of the Committee is one that was ruled long ago in India that it is not open to the Select Committee to say that it does not agree with the principle of the Bill committed to it. A member asked for a ruling as to whether it was open to the Select Committee to say in their report that "the Committee cannot accept the main principle contained in the Bill". The President of the Legislative Assembly ruled as follows : "The Chair is quite clear that it is not open to the Select Committee to say that it does not agree with the principle of the Bill".<sup>46</sup>

It follows from the general principle stated above that when the Bill is referred to a Select Committee the House is committed to the principles contained therein. If the House has accepted the principles of a Bill it should not be open to the auxiliary Committee to recommend for dropping of the Bill.

But this ruling, we think, cannot always be adhered to.

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45. On 20th November, 1950. It is to be noted that amendments to Sections of original Act not touched upon in the amending Bills have been declared by the Speaker to be not in order.

46. L. A. Deb, 19th February, 1926, pp 1541-45. "It is not open to the Committee to alter the main conception behind the Bill". See A.B Lal (Ed). *the Indian Parliament*, p. 112.

Circumstances may arise when the Committee may go "beyond" the scope of the Bill. Thus, if the Select Committee finds on evidence tendered to it that the Bill contradicts or is inconsistent with some existing Acts, or the Bill is of such a nature that the time is not ripe for it, the Committee should be allowed to make a recommendation to that effect stating clearly the reasons of such a recommendation, if any. The Rules or conventions should be so directed to facilitate the work and to minimise the abuse of power and inconsistency but not to obstruct a desirable thing to happen. Let the Rules be good servants but not bad masters.

A question arises here if the Select Committee could consider a Bill which is submitted to the Committee in a revised form of the original Bill and make recommendations accordingly. The Chair has ruled that the Committee would be competent to consider and report without affecting the policy embodied in the original Bill. This could be substantiated by taking up one incident. A Select Committee of the Constituent Assembly (Legislative) once considered a revised draft of the Hindu Code Bill and reported in the light of the revised draft. When the Law Minister<sup>47</sup> moved a motion "that the Bill to amend and codify certain branches of the Hindu Law as reported by the Select Committee be taken into consideration", a Member, Mr. Naziruddin Ahmed, raised a point of order that the motion was incompetent on the ground that "what the Select Committee considered was not the Bill that was referred to them but a totally new draft prepared by the Law Minister". Pandit Thakur Das Bhargava reinforcing Mr. Naziruddin Ahmed's point of order observed that "the privilege of the House had been violated by the Select Committee and by the procedure of the Law Department, because another Bill was considered and not the Bill which was referred to it by the House as was evident from certain remarks or observations in the Select Committee Report". The Speaker held that it could not be "disputed that the Select Committee had a right to add to or to delete from or to improve upon

47. 31st August, 1948.

the provisions of the Bill as referred, provided the additions, deletions or improvements etc. suggested by the Select Committee are within the scope of the Bill. The Ministry of Law through the revised draft, simply placed before the Select Committee a sort of proper form in which the original Bill could have been shaped by the Select Committee themselves at their meetings or they could have directed the draftsman to carry out the changes. The revised draft does not make any substantial changes in the body of the original Bill, but within the framework of the original Bill .... I am clear that the Select Committee had given full and due consideration to the substantive provisions of the Bill that was referred to them, and the present motion of the Hon'ble Law Minister is, therefore, competent, and in order".<sup>48</sup> Thus it is clear that the Select Committee could take up any revised draft of a Bill if it considers that such a draft expresses more clearly the intention of the Bill than the original Bill. But they cannot tamper with the principles and policies involved in the substance of the original Bill.

Let us now turn to another important aspect of the Report of the Select Committee. It is possible that individual members of the Select Committee who do not agree with the majority decision may have different opinions to present before the House. In that case such members are at liberty to append to the report a minute of dissent expressing their definite views on such points as they consider necessary and the reasons for dissociating themselves from the majority decision. The Rules provide that any member of the Select Committee may record a minute of dissent on any matter or matters connected with the Bill or dealt with in the Report.<sup>49</sup> The Speaker has directed<sup>50</sup> that if a member desires to append a minute of dissent to the report of a Select Committee, he shall hand over his minute of dissent to the Officer-in-charge of the Select Committee on or before the date and time fixed

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48 Ibid.

49 Rule 303(4)

50. Speaker's Direction No 85.

by the Chairman of the Committee. A member who has been absent from the sitting or sittings of a Committee at which the draft report of the Committee was considered and approved with or without amendments, as the case may be, may give a minute of dissent if he certifies in writing that he has read the report. A minute of dissent shall be given only after the draft report has been considered and adopted by the Committee and it shall not be conditional in any respect. A minute of dissent shall not be accepted after the report has been presented to the House. The Rules prescribe a condition for the minute of dissent that a minute of dissent shall be couched in temperate and decorous language and shall not refer to any discussion in the Select Committees nor cast aspersion on the Committee. If in the opinion of the Chairman, a minute of dissent contains words or expressions which are unparliamentary, irrelevant or otherwise inappropriate, he may order such words, phrases or expressions to be expunged from the minute of dissent. The Speaker also has the power to order expunctions in like circumstances or to review all decisions regarding expunction from minutes of dissent, and his decision shall be final.<sup>51</sup>

Thus after the report is signed, the report of the Select Committee on a Bill together with the minutes of dissent, if any, shall be presented to the House by the Chairman or in his absence by any member of the Committee.<sup>52</sup> Along with the report of the Select Committee, the following documents are required to be presented to the House, namely,

- (i) the minutes of the various sittings of the Select Committee ;
- (ii) Government amendments, if any ; and
- (iii) Other important papers, if any, made available to the Members of the Select Committee and approved by the Chairman of the Committee for presentation to the House.

As soon as the report of a Select Committee is presented to the House, the report together with the following papers

51. Speaker's Direction No. 91.

52. Rule 304.

shall be printed and circulated to the members of the House, namely, (a) notes and minutes of dissent, if any ; (b) the Bill as reported by the Select Committee ; (c) the minutes of the various sittings of the Select Committee ; (d) Government amendments, if any ; and (e) other important papers, if any, made available to members of the Select Committee. The Secretary shall cause every such report along with the documents of the Select Committee to be printed. The report, and the Bill as reported by the Select Committee shall be published in the Gazette. That completes the work of the Select Committee unless the Bill is recommitted to the same Committee.

## VI

After presentation of the final report of the Select Committee on a Bill, the member in-charge may move (a) that the Bill as reported by the Select Committee of the House be taken into consideration ; or (b) that the Bill as reported by the Select Committee of the House be recommitted to the same Committee either with limitations or with respect to particular clauses or amendments only, or with instructions to the Committee to make some particular or additional provisions in the Bill, or (c) that the Bill as reported by the Select Committee of the House be circulated or re-circulated, as the case may be, for the purpose of eliciting opinion or further opinion thereon.<sup>53</sup>

When the motion to consider the Bill as reported by the Select Committee is made, the scope of discussion is limited to changes made in the Bill by the Committee. The Speaker has made the following observation in this regard : "I do not think we could go again into the whole Bill. The matter was discussed before it went to the Select Committee. The speeches will have to be confined to the Bill as it is reported by the Select Committee and more particularly to the changes made by the Select Committee during the course of its deliberations. The whole legislation is not open for discussion."<sup>54</sup>

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53. Rule 77.

54. H. P. Deb, Part II, 25th July, 1952, Col. 4573.

A more important restriction on the scope of discussion imposed is that members of a Select Committee, who have not appended any minutes of dissent, should not ordinarily oppose the provisions of the Bill as reported by the Committee. In one case in this connection, the Speaker held :<sup>55</sup>

"The object of a Bill being sent to a Select Committee is for the purpose of having the considered opinion of its Members, whoever has got a difference of opinion on material points like this must state it to influence the Members of the House. Hon'ble Members come to the House under the impression that the Hon'ble Member is also a party to what has been recommended in the report. Now for the first time to say something quite contrary to what has been said in the report or something which he has not mentioned earlier, is not the way to lead the House. Members of a Select Committee are expected to give a lead to the House ; either they agree with the report or they do not agree. If every member of a Select Committee bypasses the report of that Committee, what is the object of having sent the Bill to a Select Committee ? Therefore, it is proper that any member who differs from the majority report must append a note of dissent".

On the scope of discussion on a Bill as reported by the Select Committee, whether the proceedings of the Select Committee could be referred to individually or collectively in the House, the Speaker once held : "The Proceedings of the Select Committee are generally confidential because to disclose all that happened in the Select Committee would create bitterness and heart-burning outside. It is a process of evolution. What took place in the Select Committee need not be referred to individually or collectively. It is the final decision that matters."<sup>56</sup> This ruling helps some decorum to be observed to make the work of the Select Committee dignified and respectable.

Sometimes a Bill as reported by a Select Committee is recommitted to the same Committee on a motion made in that

55. On the 17th July, 1956.

56. Parl Deb, 12th May, 1951, C. 8617.

behalf with or without limitations or instructions. It may be noted here that the Bill as reported by one Select Committee may be recommitted to another Select Committee. "There is nothing in the Rules specifically to lay down that it shall be referred to the same Select Committee".<sup>57</sup> When such a motion is moved no amendment is permissible to be moved in the House.<sup>58</sup> Further the motion for recommital to the Select Committee is not in order when it is merely a dilatory motion.<sup>59</sup> When the Bill is recommitted, the procedure shall be the same as is with all Select Committees. Once the Select Committee after the consideration of the recommitted Bill submits its report, it is automatically dissolved.

## VII

Before we conclude, some of the reports (taken at random) may be examined to indicate how useful the Select Committees have become to the House. Let us take the Report of the Select Committee on the Gift Tax Bill, 1958. The Select Committee on the Gift Tax Bill, 1958 was constituted on a motion adopted by Lok Sabha on the 24th April, 1958. The Committee consisted of 43 members. The Committee considered the Bill at 6 sittings and presented their report on the 2nd May, 1958. Some of the recommendations of the Select Committee were :—

- (1) Definition of "person" should cover associations of persons.
- (2) Definition of "previous year" should cover all cases of gifts made during a period of 12 months perior to the assessment year including the gifts made by persons in whose case there is no previous year under the Income-Tax Act.
- (3) It should be specifically provided that gifts made before the 1st April, 1957 should not come within the purview

57. The Ruling of the Chair, Parl. Deb, Part II, 4th September, 1951, Col. 1902.

58. Parl. Deb, Part II, 4th September, 1951, Cols. 1903-04.

59. Parl. Deb., Part II, 1st October, 1951, Cols. 3933-34.

- of the Bill. There should be no aggregation of gifts made during five preceding years for the purpose of determining the rate of duty. The tax should be levied on gifts made during the previous year at the rates specified in the schedule.
- (4) Debts, contracts, actionable claims or interests in property which are written off, compounded or remitted, bonafide should not be treated as gifts.
  - (5) No citizen of India should be charged a tax in respect of gifts of movable property made outside India unless he is regarded as resident and ordinarily resident in India within the meaning of the Income-Tax Act.
  - (6) Gifts for charitable purposes made before the 1st April, 1958 should not be subject to tax and further in respect of such gifts made after that date the aggregate value of gifts made to one donee should not exceed rupees five hundred.
  - (7) Gifts for the education of one's children, gifts by way of bonus etc., gifts made in the course of business, gifts to Bhoodan or Sampattidan movement and gifts made out of privy purses which custom demands, should be exempted from the tax.
  - (8) No distinction should be made between public companies and private companies for the purpose of exemption, but in either case the exemptions should not apply to gifts made to directors, managing agents etc., or to their relatives.
  - (9) Lastly, charitable and other institutions whose income is exempt from Income-Tax should not be subjected to gift tax in respect of gifts made by them.

The Bill as reported by the Select Committee was discussed by the Lok Sabha on the 6th May, 1958 and was passed.<sup>60</sup>

Another report may be taken—the report of the Select Committee on the Banaras Hindu University (Amendment) Bill,

60. See Parliamentary Committee, 4th session Second Lok Sabha C. C. No. 5 (Vol. III) Published by Lok Sabha Secretariat, New Delhi, May, 1958, pp. 42-44.

1958. The Select Committee was constituted on a motion adopted by Lok Sabha on the 16th August, 1958. The Committee consisted of 33 members with Sardar Hukum Singh as Chairman. The Committee held 6 sittings to consider the Bill. The report of the Committee was required to be presented to the House on the Second August, 1952. The date of presentation was extended to 27th August, 1958 on which date the report was presented to the House. Some of the important recommendations of the Committee, which otherwise agreed generally with the proposals in the Bill as introduced' were :

(1) The Pro-Chancellor should also be a member of the Court.

(2) Powers of the Executive Council under Statute 18 should be exercised subject to the control of the Visitor.

(3) Under Statute 29, composition of the Selection Committee should be specifically laid down.

(4) Instead of the Reviewing Committee (Previously called the Screening Committee) themselves examining the cases, the Executive Council should forward to the Solicitor-General such cases where it had reason to believe that the continuance in office of the persons concerned would be detrimental to the interest of the University. The Solicitor-General on being satisfied that a prima facie case existed, would forward the cases to the Reviewing Committee, who after such investigation or enquiry as they might consider necessary, would make their recommendations to the Executive Council for further action. Provision had also been suggested in respect of cases of complaints against members of the Executive Council.

These recommendations and the Bill as reported by the Select Committee, were accepted and approved by Lok Sabha on the 2nd September 1958. These two reports would clearly show how useful the Select Committee are to the House. The Select Committees being representative in character their recommendations are easily acceptable to the House even when they make significant changes in the Bill under consideration. The Committees are always assisted by the Draftsmen of the Law Ministry. They are technical people on the art of drafting.

The recommendations of the Committee are put in the legal framework by the Draftsmen who are deputed to help the Committee in drafting the revised reports. Besides, the departmental officers appear before the Select Committee and tender their evidence and assist the Committee. Interested persons and representatives of affected Associations also appear before the Committee. The Select Committees therefore, always get expert assistance and hence its report is respected in the House. It sometimes effects material changes in the Bill. A few instances may be taken to illustrate the point.

In the case of Hindu Adoption and Maintenance Bill, 1956, the Bill provided that a widow could adopt a child but the Select Committee added that "unmarried woman" could also adopt a child.<sup>61</sup> As regards the "claimant to maintenance" there was no provision in the original Bill that he should be a Hindu. But the Select Committee added a section to the Bill<sup>62</sup> to that effect. Thus the Committee could recommend material changes in a Bill.

Let us take another Bill—The Electricity Supply Amendment Bill, 1955. In this Bill the Committee made many changes, legal, material and grammatical. As regards the 'depreciation reserve' the original amending Bill provided that a certain percentage of "the original cost of the assets of the Board" should be kept as depreciation reserve. But the Select Committee changed it to "the original cost of the assets *after taking into account the sums already written off and set aside the books of the Board*". The reason given was that it would make the revised section "self-contained". As regards the dispute between the Board and the licensee as to whether any directions given are reasonable or not, the original Bill did not provide that the decision of the Central Electricity Authority should be final. The Select Committee added that such decision "shall be final". The Committee held that "in as much as the powers of the Board are being expanded so as to enable it to issue directions to a licensee in respect of the whole under-

61. Sec. 8(c).

62. Sec. 24.

taking or any part of it, the directions issued by the Board to a licensee should be reasonable. Any dispute whether the directions are reasonable or not would be decided by the Central Electricity Authority." The clause has been amended accordingly.<sup>63</sup> This is a legal change inasmuch as it provides the machinery to adjudicate certain disputes. It may also be seen that it has added a word "further" to the second provision.<sup>64</sup> This is an example of grammatical change made. These examples are taken just as samples. These changes were ultimately adopted by the House.

Thus it may be seen how useful the Select Committees are to the House in its legislative activities.

### Joint Committees on Bills

Joint Committees on Bills are appointed on an ad hoc basis to consider Bills which are of special importance. In England such Committees are normally appointed "on matters of equal concern to both the Houses, which do not raise political issues, such as the revision of certain branches of the law, and such, in particular, as Private Bills which incidentally involve the settlement of some important matter of principle".<sup>1</sup> Joint Committees are, in England, constituted as small Select Committees of each House sitting together. They consist of an equal number from each House. The Chairman of such a Joint Select Committee is usually a Peer. The procedure is the same as that of a Select Committee of the House of Lords, which differs from that of the Commons. The Joint Committee can decide against a Bill but it has to make a special report to both Houses.<sup>2</sup>

In India Joint Committees on Bills are ad hoc committees

63. Report of the Select Committee on The Electricity Supply Amendment Bill, 1955, para, 16.

64. Sec 18

1. *Campion*, op. cit., p. 249.

2. *Ibid.*, p. 251.

appointed for the purpose of considering and examining Bills. A motion may be made, either substantially or by way of amendment, that a Bill be referred to a Joint Committee of the two Houses. Such a Committee may be appointed with the concurrence of one House or the other. The House where the Bill originates appoints a Select Committee of a certain number of members of the House and fixes a number of members to be appointed by the other House. The originating House always requests the other House to concur in the appointment of a Joint Committee and to name its members. The proportion of the membership is 2 to 1 in favour of Lok Sabha. There was no need to appoint Joint Committee in the Legislative Councils of 1854 to 1920 (as also in the Provisional Parliament 1950-52) as they were unicameral in nature. Consequent upon the enforcement of the Act of 1919 the two Houses at the centre used to appoint Joint Committees from time to time.<sup>3</sup>

At present Lok Sabha and Rajya Sabha often employ this device of appointing Joint Committees with reference to a Bill making provisions for any matter

No motion for reference to a Joint Committee can be made if the Bill makes provision for any of the matters (connected with Money Bills) specified in sub-Clauses (a) to (f) of Clause (1) of Article 110 of the Constitution.<sup>4</sup> This is because Lok Sabha does not like to surrender its absolute power over Money Bills nor does it like to share it with any other.

An example of a motion for appointing a Joint Committee of both the House may be taken,<sup>5</sup> from a motion in the Rajya Sabha.

“That the Bill to amend and consolidate the law relating to copyright be referred to a Joint Committee of the Houses consisting of 45 members (15 from Rajya Sabha named in the motion and 30 members from Lok Sabha); that in order

3. Legislative Assembly Standing Order No 38(2).

4. Rule 74 (Proviso)

5. The motion in the Rajya Sabha for reference of the Bill to a Joint Committee adopted on 16th Feb., 1956.

to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee ; that in other respects, the Rules of Procedure of this House relating to Select Committees shall apply with such variations and modifications as the Chairman make; that this House recommends to Lok Sabha that Lok Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed by Lok Sabha to the Joint Committee ; and that the Committee shall make a report to this House by the 25th May, 1956."

In response to the motion adopted by Rajya Sabha, the following motion was moved in Lok Sabha :

"That this House concurs in the recommendation of Rajya Sabha that the House do join in the Joint Committee of the Houses on the Bill to amend and consolidate the Law relating to Copyright made in the motion adopted by Rajya Sabha at its sitting held on the 16th February, 1956 and communicated to this House on the 21st February, 1956 and resolve that the following members of Lok Sabha be nominated to serve on the said Joint Committee. (Names of 30 members are included.) This House recommends to Rajya Sabha that the said Joint Committee be instructed to report on or before the 16th August, 1956".

It is interesting to note that the direction to present the report given by the originating House fixed the date to 25th May, 1956 and the concurring House (Lok Sabha) recommended 16th August, 1956. Ultimately the Joint Committee got extension till the 14th November, 1956.

It may be observed here that in the British Parliament, to appoint a Select Committee straight away and ask the other House to appoint its members—the number of which is fixed by the originating House—is considered discourteous to the other House.<sup>6</sup> A Joint Committee of the British Parliament is set up at the instance of either House. If one House consi-

6. *Campion*, op. cit., p. 250.

ders it expedient that a Joint Committee should be appointed to consider a Bill, it passes a resolution to the effect "that it is expedient for the Bill to be committed to a Joint Committee of the Lords and Commons" and sends the resolution to the other House for concurrence. The other House thereupon passes a resolution "that this House concurs in the Resolution communicated by the.....viz., that it is expedient etc." After the message of concurrence is received, the originating House appoints a Select Committee to be joined by a Committee to be appointed by the concurring House. It then sends a message stating that a Select Committee has been appointed consisting of certain number of members and requesting the concurring House that a Committee be appointed with an equal number of members. Then both the Committees meet jointly and elect the Chairman. Thus the Joint Select Committees are constituted as small Select Committees of each House sitting together.<sup>7</sup>

In India the Joint Committee, as seen above, is a single Committee appointed for a purpose. There is no long procedure of awaiting the concurrence of the other House before the names are suggested by the originating House. The other House normally gives concurrence to the appointment of a Joint Committee.

There is an important point to note here. The House agreeing with the motion is not necessarily committed to the principle of the Bill. On the 17th December, 1953, while the House was considering the motion for a Joint Committee on the Special Marriages Bill proposed by the Council of States, a question arose as to whether, by agreeing to the motion, the House would be committing itself to the principle underlying the Bill. The Deputy Speaker who was in the Chair observed as follows :

"There is no commitment of this house. This resolution is a resolution placed before the House asking this House to send some members to associate them with the deliberations

7. Campion, *op. cit.*, p. 249.

of the Joint Committee. But that does not involve any commitment of this House so far as the principle of the Bill is concerned. This House is not committed to the principle of the Bill. It is open to it to reconsider the question of the principle of the Bill when the motion for consideration comes up. It can throw out the motion and say that the House is not agreeable to the principles of the Bill or to its being enacted into law.”<sup>8</sup>

It is thus, “wholesome to say that concurrence in a motion for reference to a Joint Committee ought not to commit the House to the principle underlying the Bill”.<sup>9</sup> But as yet there is no example of any such Bill being thrown out.

If a motion for appointing a Joint Committee is proposed after circulation of the Bill, any amendment for circulation in the other House is out of order.<sup>10</sup> Besides, on a motion for reference to Joint Committee, amendments seeking to give instructions to Joint Committee for amending the clauses of the Bill are out of order.<sup>11</sup> It may be observed here that Pro-rogation has no effect on Bills under consideration by a Joint Committee.<sup>12</sup>

The Joint Committees have been employed by the Parliament on Bills and other important matters of common concern. The procedure, scope, nature, functions and the reports shall, if initiated by Lok Sabha, be the same with such adaptations and modifications as those of the Select Committees of Lok Sabha.

It has been said often that the very purpose of the Second Chamber is to delay the legislation passed by the popular Chamber. But the employment of the Joint Committee is just for the opposite purpose i.e. to hasten the process of Legislation. Thus, it appears that the Joint Committee system defeats the very purpose of the Second Chamber. But it may be noted here that in England Joint Committee system is

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8. H. P. Deb, Part II, dated 17th December, 1953, Cols. 2427-28.

9. L. S. Deb, Part II, dated 30th April, 1956, Cols. 6733-34.

10. H. P. Deb, Part II, dated 10th May, 1954, Cols. 6985-86.

11. L. S. Deb, Part II, dated 26th April, 1956, Cols. 6483-84.

12. L. S. Deb, Part II, dated 26th July, 1956, Cols. 978-86.

mainly employed for consideration of some Bills of common concern of a non-controversial nature and Private Bills. Where the matter under consideration is non-controversial there is no point in delaying such legislation. Hence Joint Committees would, by dealing with the non-controversial matters, in no way defeat the purpose of the Second Chamber. But in India all types of business, controversial and non-controversial, are referred to Joint Committees.<sup>13</sup> This practice may appear to be undesirable. But the need of a developing economy and growing volume of business facing the Parliament of India require some tools to hasten the legislative process on many matters. To discuss the same question over and over again till the exhaustion of the patience of the public, is an aristocratic idea. When economic development of the under-developed country requires speedy action and quick decision, it cannot afford to adopt the dilatory principles of 18th century legislation. In the race for development the principle of 'pause and think' cannot be entertained. Hence the departure from British practice in the use of Joint Committees cannot but be upheld under the changed circumstances.

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13. Highly controversial Bills like Dowry Prohibition Bill, 1959, State Bank of India (subsidiary Banks) Bill, 1959, and Parliament (Prevention of Disqualification) Bill, 1959 were referred to Joint Committee.

## CHAPTER XV

### INCIDENTAL COMMITTEES

There are some Parliamentary Committees appointed just on an ad hoc basis, not regular but incidental. Very often, the British House of Commons employs such ad hoc Committees. In India also the British practice is followed in constituting ad hoc Committees for specific matters other than Bills. It is proposed to discuss them in this Chapter.

#### 1. Committee on Offices of Profit

The Committee on Offices of Profit, consisting of 15 members from both Houses of Parliament (5 from Rajya Sabha and 10 from Lok Sabha) was constituted by the Speaker, in consultation with the Chairman of Rajya Sabha, on the 21st August, 1954, to study various matters connected with disqualification of members under Article 102(1) (a) of the Constitution and to make suggestions as to how the question of enacting a comprehensive law on the subject should be dealt with. In addition to examination of individual cases of about 200 Committees/Bodies under the Central and State Governments on which Members of Parliament were serving, the Committee also considered the general principles that should govern the definition of an "office of profit." Its report was laid on the Tables of the two Houses of Parliament on the 22nd December, 1955 recommending that Government might introduce a comprehensive Bill on the subject. For such cases of offices as might not be incorporated in the Bill or as might come into existence in future, the Committee recommended the constitution of a Standing Parliamentary Committee for scrutiny of these cases. In fact, a Joint Committee on Office of Profit for the duration of the Second Lok Sabha has been constituted.<sup>1</sup>

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1. Vide, Journal of Parliamentary Information, Vol. VI, No. 1, p. 31.

### **Railway Convention Committee**

A Committee of both Houses of Parliament was set up in pursuance of a Resolution adopted by Lok Sabha on the 22nd April, 1960 and concurred by Rajya Sabha on the 28th April, 1960 to review the rate of dividend payable under the 1949, and 1954 conventions by the Railway undertakings to the General Revenues as well as other ancillary matters in connection with Railway Finance vis-a-vis the General Finance.<sup>2</sup> The Committee consisted of 12 members of the Lok Sabha and 6 members of the Rajya Sabha. The Committee submitted its report to Parliament on the 25th November, 1960 which was unanimously adopted by both the Houses.

### **Committee to Fix Hindi Equivalents for Parliamentary, Legal and Administrative Terms**

The work of fixing Hindi equivalents for Parliamentary, Legal and Administrative terms was initiated by the Constituent Assembly and on its dissolution the work was transferred to the Lok Sabha Secretariat (then known as the Parliament Secretariat). About 26,000 terms were collected out of which nearly 5,000 terms, commencing with letters A to C were approved by the "Finalising Committee".<sup>3</sup> Owing to the pre-occupation of the members of this Committee, the work in respect of remaining 21,000 terms could not be undertaken by it and the Committee was, therefore, dissolved in March, 1953.<sup>4</sup> On the 5th March, 1956 another Committee was appointed by the Speaker of Lok Sabha with the concurrence of the Chairman of the Rajya Sabha, to carry on the work. The Committee consisted of 38 members from both the Houses, including its Chairman, who were conversant with Sanskrit, Hindi or other regional languages. The Committee was asked to make a report as early as possible, within a period of 6 months from the date of its first sitting, which was held

2. Similar Committee was appointed in 1954.

3. First Parliament (1952-57) ; A Souvenir, pp. 91-92.

4. Ibid.

on the 10th May, 1956. Two extensions were granted by the Speaker. The Committee held 108 sittings<sup>5</sup> and considered and fixed Hindi equivalents for all the 21,000 terms. The Committee endeavoured to evolve a terminology which might be widely accepted in all parts of the country. As far as possible, it tried to adopt Hindi equivalents which were commonly intelligible and current in Hindi usage. Where such Hindi equivalents were not available, equivalents from regional languages had been preferred if they could fit in with Hindi usage. Some words of Sanskrit origin as also English terms, which had become current in Hindi, had also been adopted.

### **Committee on the Draft (Second and Third Five Year) Plans**

A new procedure was adopted by Parliament for discussion on the Draft Second Five Year Plan during the Budget Session of 1956.<sup>6</sup> The Speaker took the initiative and referred the matter of constituting Committees for discussion of the Plan in the House to the Business Advisory Committee. The Business Advisory Committee of Lok Sabha, at its sittings held on the 16th April, 1956, considered the question of allocation of time for discussion on the Second Five Year Plan, and as a large number of members desired to take part in this discussion while the time at the disposal of the House was not sufficient to accomodate all, the Committee decided to form a few ad hoc Committees for a preliminary discussion of the Plan.

A sub-Committee of the Business Advisory Committee was accordingly appointed to consider the question of formation of Committees, and at its meeting held on the 27th April, 1956, the following recommendations were made :

- (1) Four Committees of the House to be formed to discuss the Plan which might be divided into four groups of subjects.
- (2) Each Committee to consist of such members of the House as might like to participate in the discussion of the

5. Up to the end of the 14th session of First Lok Sabha.

6. Collected from the Journal of Parliamentary Information, New Delhi, Vol. II, No. 2, pp. 200-208.

subjects allotted to that Committee. No maximum number for a Committee need be fixed.

(3) A circular to be issued to the members of the House asking them to give their names for serving on one of the Committees.

(4) A Chairman to be appointed by the Speaker for each Committee out of those forming that Committee.

(5) The Committees to meet immediately after the Draft of the Second Plan has been presented to Parliament.

(6) Each Committee to examine the Plan in respect of those subjects which are allotted to it.

(7) The proceedings to be reported verbatim, and the same be made available in the Library.

(8) A synopsis of the verbatim proceedings to be submitted to Parliament by the Committees, which may contain a brief summary of the points and suggestions made by the members and any other relevant material which the Committee would like to include.

(9) The Planning Commission to be asked to depute officers to assist the Committees in their deliberations.

The sub-Committee also recommended that Rajya Sabha might be asked to join the discussion of the Plan by Committee and to suggest names of its members to be included in these Committees. The above recommendations of the sub-Committee were embodied in the 35th report of the Business Advisory Committee which was presented to Lok Sabha on the 9th May, 1956. The report of the Business Advisory Committee was adopted by Lok Sabha on a motion by the Deputy Speaker, who also made it clear that the Committees to be formed should arrive at no decisions or pass no resolutions, but only express their views which would be made available to all the members of the House. The Rajya Sabha concurred with the recommendations of Lok Sabha on 14th May, 1956.

After members of both the Houses had given their names to serve on one of the Committees in response to an invitation issued through Lok Sabha and Rajya Sabha Bulletin, the Speaker nominated the members to serve as Chairman of the

four Committees. The four Committees were : Committee A (to discuss policy, outlay and allocations of the Plan) ; Committee B (to discuss the subjects of Industries, Minerals, Transport and Communications) ; Committee C (to discuss the subjects of Land Reforms and Agriculture including Animal Husbandry) ; and Committee D (to discuss Social Services and Labour Policy, including Public Co-operation for the Plan).

A meeting of the Chairmen of the Four Committees with the members of the panel of Chairmen was held on the 25th May, 1956. At this meeting, which was attended by the Prime Minister, and the Minister of Planning, it was decided that in the budget session broad principles of the Plan, general outline, resources and targets which were covered by the first eight chapters of the Second Five Year Plan might be discussed and the remaining chapters taken up during the next session.

A Joint meeting of the four Committees was also held on the following day where it was decided that the Committees might start their work immediately. It was also decided that Committee A dealing with general policy, outlay and allocations of the Plan might complete its work and present its views to Parliament during the current session and the other three Committees might present in the next session.

Each Committee was to draw up its own programme and procedure according to its convenience. Committee A consisted of 80 members ; B, 114 members ; C, 91 members ; and D, 79 members

After the synopsis of proceedings of the four Committees had been presented to Parliament, Rajya Sabha held a general discussion on the Plan from the 5th to the 7th September, 1956 and Lok Sabha from the 8th to the 13th September. Each House adopted a resolution approving the Draft Second Plan on the last day of its debate on the Plan.

The adoption of this new procedure enabled Parliament not only to cut short the Debate in the full House and save much of Parliament's time, but also to have a full and exhaustive discussion on such an important subject as the Second

Five Year Plan, enabling a large number of members of both the Houses to take part in the discussion in the Committees and to express their views on the Plan.

This experiment proved to be a success and the members of both Houses appreciated its work and suggested the adoption of this procedure for future discussions of similar important subjects in the House.

A similar procedure was followed for discussing the Draft of Third Five Year Plan also.<sup>7</sup> The Speaker appointed five Committees for the purpose consisting of members of both Houses of Parliament.

The strength of each Committee was : Committee A—107 members ; Committee B—139 ; Committee C—158 ; Committee D—85 ; and Committee E—34 members. A small ad hoc unit of the Lok Sabha Secretariat was set up. This Unit functioned in close co-operation and co-ordination with the Planning Commission and the Rajya Sabha Secretariat. Some members of the Planning Commission were also invited to attend the meetings of the Committees. The Committees prepared printed synopsis of their proceedings in which they made some important observations which formed the basis of discussion in the Houses.

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7. The draft outline of the Third Five Year Plan was laid on the Table of Lok Sabha on 1st August, 1960, and the Speaker appointed 5 Committees. See Journal of Parliamentary Information. Vol VII(1961.), No. 1, pp. 29-39, for details on functions etc.

## CHAPTER XVI

### CONCLUSION

Indian Parliamentary democracy has been working on the British model—at least it is intended to do so. Our study of the Committees of Lok Sabha clearly indicates that Lok Sabha has borrowed many auxiliary institutions from the British House of Commons. But the study also reveals that those Lok Sabha Committees, though British in origin, have changed into different garbs, with wider functions and responsibilities. For instance, the Estimates Committee in Lok Sabha suggests alternate policies and what is more important, it has gone even to the extent of suggesting changes in the structure and organisation of Government Departments, which its British counterpart can never dream of doing.

Similar is the case with the Committee on Petitions, Business Advisory Committee, Public Accounts Committee, Committee on Private Members' Bills and Resolutions and above all the Joint Committees—though copied from the British system,—they have acquired more powers and enjoy wider jurisdictions. This has been clearly shown in the chapters dealing with the individual Committees.

Our Lok Sabha has also made some innovations. The Committee on Government Assurances of Lok Sabha is one such innovation. In England the need to chase the Executive to implement the assurances given by the ministers hardly arises because the Executive there is quite responsive and responsible. But in India the old tradition and unresponsive character of the Executive are responsible for the birth of such new instruments.

Thus it is easy to establish that Lok Sabha has borrowed some institutions and adopted them to the needs of our soil, and also created new ones where necessary. This has drifted the Committee System of Lok Sabha from the pure British model.

Next, the question arises if our Committee System is drifting towards the established continental or congressional model or towards anything new. It may be seen from the working of the various Committees that the Committees have not restricted themselves as advisory bodies of Parliament ; sometimes they have landed themselves in the domain of policy of the Government and often they have brought the bureaucrats to account for their inefficiency and negligence. One case may be taken to illustrate the point. In 1951 the Estimates Committee recommended that "the present Jute Controller should be replaced by an independent person of experience". The concerned Ministry took the necessary action and simply reported that "this has been done".<sup>1</sup> Similarly, other Committees while examining various matters within their jurisdictions have exercised effective control over the executive department. Thus, there is a marked tendency of the Committees towards the Congressional or Continental system. But they have not attained their strength either in form or in substance. The Congressional or Continental pattern is that there is one Committee for every department and whatever comes before the House pertaining to the department, the Committee concerned is to deal with it ; and as such they have become specialised ones and constant rivals to the executive departments. The Lok Sabha Committees have not acquired that status at all nor are Committees constituted according to Departments. They have succeeded in exercising effective control over the executive but have not become rivals to the Cabinet or the Ministries in all respects. Thus, our Committees have departed from the British system and drifted towards Congressional ones, but have not attained the status of the latter. It would be correct to say that they are oscillating between them having eyes fixed more on the former than on the latter.

Another feature which is discernible from our study is that the Committees of Lok Sabha are working as it were, as effect-

1. Statement laid on the Table on the 18th September, 1951.

ive but dignified substitutes for the 'Opposition' in Lok Sabha. It may be noted that the balance of power between the political parties in Lok Sabha is wanting. What is even more shocking is the weak and divided character of the Opposition parties. When the ruling party has 361 members in a House of 494 elected members, the Opposition, which includes 27 independents and 14 parties with divergent and non-concurrent ideologies,<sup>9</sup> has only 133. Since no single party has membership equal to the number constituting quorum (one-tenth of the total seats in Lok Sabha), there is no officially recognised leader of Opposition. There is practically no effective opposition at all in the House 'to propose, expose, oppose, and depose the Government.' No democracy of the British type can long be secured without a formidable Opposition.

This lacuna has been filled up by auxiliary machinery provided by the House itself. Without appearing to be Opposition, these creations of the House have acted in a successful way in exercising control over the Executive. Again the Committees of Lok Sabha have acted so far in such a non-partisan manner that they have not roused the cabinet against them. What would have been a Herculean task for the Opposition parties could be easily done by the Committees. For instance, no person in the Opposition, however big he might be, could have access to official records, even of a minor nature. But the Committees having access to all but secret records could collect a huge volume of information which could have taken decades for the Opposition to collect through approved means of procedure, namely, through questions and motions.

The Committees of Lok Sabha again compel and pursue the

2. The following gives the strength partywise (Third Lok Sabha) :

(1) Congress (ruling party)—361 elected members, (2) Communists—29, (3) Swatantra—22, (4) Janasangh—14, (5) PSP—12, (6) DMK—7, (7) Socialists—6, (8) Akali Dal—3, (9) Jharkhand—3, (10) Republicans—3, (11) Forward Bloc—2, (12) Hindu Maha Sabha—1, (13) Ramrajya Parishad—2, (14) Muslim League—2, (15) Others—27.

Total elected members in Lok Sabha are 494 out of 507 members.

Government in various matters which members of the Opposition would have felt tiring and irksome and even fruitless. For instance, to get the assurances given by the Ministers on the floor of the House implemented would be even more difficult for the disorganised Opposition. The Committee on Government Assurances has been able to do it successfully. The expert control exercised by the Committees on Public Accounts, Estimates, and Sub-ordinate Legislation could never be exercised by a disorganised and weak Oppositian.

What is more significant to note is that without the intention of being a substitute for the Opposition, our Committees have gradually taken its place in a dignified way—dignified, because they are respected, they never arouse the cabinet on party lines and they have been given the necessary equipments and powers to do their job.<sup>3</sup> They are dignified again because their reports are not reversed ; and in the case of the most important Committees like Committees on Public Accounts, Estimates and Sub-ordinate Legislation, their reports are accepted without discussion because, in the words of the Speaker, “the recommendations of the Committee are by convention as good as resolutions of Parliament which are binding upon the Government.”<sup>4</sup>

The next important contribution of the Lok Sabha Committees is that they have successfully saved the House from its impotency vis-a-vis the growing meance of Cabinet dictatorship. The vast expansion in the State activities particularly due to the Five Year Plans has clothed the Cabinet with enormous powers. Its leadership in legislation is unquestionable because it alone could know the needs of Planning and the necessity to remove the bottlenecks arising therefrom. If nationaleconomic take-off is to be accelerated and economic development is to

3. Expert assistance is available to the Committees on Public Accounts, Sub-ordinate Legislation, Select Committces and Rules. Secretarial assistance is given to all Committees without exception.

4. See Speaker's observation, L. S. Deb, part II, dated 25th July, 1955, Cols. 8389-90.

be hastened, Parliament has to surrender more and more of its traditional powers to the Cabinet and in fact it is doing so willingly. Besides, the Cabinet in India, commanding as it is more than two-thirds of the members of Lok Sabha has become almost invincible and as such the House as a whole should and has given up the idea of breaking the Government with its usual weapons on the floor. The growing volume of delegated legislation, the enormous volume of estimates and expenditure, the large number of executive lapses in varied matters and fields, cannot effectively be controlled by Lok Sabha on the floor through traditional methods. Therefore, it has endeavoured on various pretexts to find more effective and more systematic forms and methods of control over administration through its various Standing and ad hoc Committees. What the House has lost by surrendering its powers to the Cabinet, has been and is being compensated by the control exercised through these Committees. The Committee on Sub-ordinate Legislation is there to check delegated legislation, the Committees on Public Accounts and Estimates are there to exercise proper control over expenditure and to effect economy, and the Committee on Government Assurances<sup>4</sup> is there to pursue the assurances till they are implemented. Thus these organs of the House are busy in restoring Parliamentary supremacy over the Executive. This is done quietly and the process is slow but steady. The original intention of these Committees might have been to relieve the burden of the House, to elicit information or to scrutinise, but ultimately they have turned to be agencies to restore what is lost by the increasing menace of Cabinet dictatorship. What is given in by right hand, is taken back through several left hands.

It may also be recollected here that the Ministers are not allowed to act as members of the various important Committees. It has been, therefore, not possible for them to influence the Committees. The absence of the Ministers, their non-partisan character and their non-official Chairman have exalted their position particularly of the important Committees. Thus they do not rouse the cabinet at any time ; the ministers

not only tolerate their most stringent criticism against the officials but actually for reasons to be examined presently, welcome them.

Another important contribution of the Lok Sabha Committees is the resultant influence on bureaucracy. In a parliamentary democracy the Cabinet is made responsible to the popular House. On the floor of the House it is the ministers who come under searching criticism and they defend themselves, and the bureaucrats conveniently escape under this cloak of ministerial responsibility. There is no opportunity for the House to censure these officers of Government on the floor of the House. It is, thus, a problem particularly in an under-developed country like ours, where the public is not so much organised to check official excesses and bureaucracy constitutes a distinct privileged class, to bring them to account and to exercise effective control over them.

The Ministers are laymen and they are amateurs in administration. They have, in most cases, neither time nor capacity to penetrate much into the technicalities of administration. A system of public administration is the composite of all the laws, regulations, practices, relationships, codes and customs that prevail at any time in any jurisdiction for the fulfilment or execution of public policy. Again it is said that administration is the capacity of co-ordinating many, often conflicting, social energies in a single organism, so adroitly that they shall operate as a unity. This presupposes the power of recognising a series of relations between numerous special social interests, with all of which no man can be intimately acquainted.<sup>5</sup> Probably no very highly specialised class can be strong in this particular quality because of the intellectual isolation incidental to specialisation ; and yet administration or generalisation is not only the faculty upon which social stability rests, but is, possibly, the highest faculty of the human mind. Modern administration unlike in Walpole's time, has become such that no Minister can master the art of public administration. It is, therefore, futile to expect that the Ministers could control effectively the

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5. Adams Brooks, *the Theory of Social Revolution*, 1913, pp. 207-8.

administrators who are professional and skilled in their art. No one would be justified to hold that the traditional pattern of leaving everything to the Ministers would be enough under the modern set-up particularly in a planned economy. There is, thus, a need to have some agency to bring the officials to account at some stage or the other. Bringing them to account indirectly through ministerial responsibility is less effective than directly asking them to explain their activities and ensuring them through an organised and effective machinery. It is this purpose which has attracted the use of the Committees of Lok Sabha.

The importance of these Committees could be better appreciated if we examine a little the "informal" working relationship between the Ministers and the senior officials. There are it is said, many senior officials who, being conscious of their well-deserved power resulting from their undoubted efficiency and familiarity with the affairs of their own departments feel strong enough to get everyone of their actions approved by their Ministers. They are accustomed, it is said to be spoken to with the utmost deference not only by their subordinates but even by the Ministers depending exclusively on their co-operation for the success of their term of office. They know, as it appears, the vastness of their power particularly when the Five Year Plans shower many responsibilities on them. They are, it is alleged, so drunk with power that they hardly have anybody to fear within their department. Nobody, including a majority of the Ministers, have the courage, it is also alleged, to tell them where they have gone wrong and to call for explanation. They, it is further said, consider themselves as creatures of a super-human race born to rule the Departments. These self-possessed strong bureaucrats, when criticised by any member in Lok Sabha, appear to have immediately their "agents" in their Ministers to defend their actions and protect them on the floor. The Ministers in return expect good co-operation to sail smoothly during their term. It is this expectation, it is said, that has made the ministers to acquiesce "in almost all" the activities of the officials.

Therefore, it is all the more necessary that these officials, even the boldest among them, should be made answerable in the strict sense of the term at least to somebody. That body is the Parliamentary Committee of Lok Sabha. The Lok Sabha Committees are compensating for the loss of actual effective control of the Ministers over their officials. Ministers may be trifled with by the officers, but not the Committees. Officials are summoned before the Committees and asked to give their evidences and explanations; they are forced sometimes to answer most unpleasant questions before the Committees. Their whole efficiency may be put to test. They may be reprimanded by any obscure member of the Committee who may consider their answers unsatisfactory. They have to face any unfavourable and damaging comments on their activities. It is interesting to watch these officials whose word is law in their own departments, awaiting their turn sitting on the uncomfortable seats outside the Committee rooms in a state of nervous tension as the candidates wait for their turn at the doors of the Public Service Commission. They are aware that any awkward question may be thrown at them and refusal to answer or obvious prevarication is liable to be treated as a breach of privilege. Besides, any unfavourable comment on them in the Report would damage all their prestige and prospects of promotion. Thus, to put these rogue-elephants in their cages the Parliamentary Committees are the only hope and effective instrument.

It should not be presumed that by exercising effective control over bureaucracy, the Committees have acted as substitutes to the Cabinet. Rather, these Committees have supplemented the efforts of the cabinet to fight a lone battle with the bureaucrats. Civil servants are ordinary mortals; they have the defects and weaknesses typical of human nature—each man loves, as Shakespeare has said, “his own brief moment of authority”. Often the bureaucrats do abuse their position and authority. By the large, no doubt the Governmental processes of modern democracy have provided adequate protection against this “insolence of office”. However, these procedures

are not always fully used nor are they always fully effective. Here and there a public servant attempts to make his public office yield a private gain or bungles under pressure and uses his power to confer illicit advantage on some social group. Although the quality are not always caught and forced to make amends, the gross volume of such abuse has roused public opinion and Parliament's indignation. The Ministers, busy persons as they are, cannot fight the battle alone. It is often found that bureaucracy is besmirched by even Government party members for winning for their political chiefs a perpetual battle against bureaucratic regimentation. Thus, in fighting against the "desk-government", the Committees strengthen the hands of the 'chief-executive Committee of Parliament' i.e. the Cabinet. To accomplish the broad national objectives the Committees have contributed strength and vitality to the cabinet by leading a crusade against bungling, arbitrariness, wastefulness, officiousness and regimentation and by endeavouring to make the bureaucracy efficient, competent, responsive and responsible which no individual Minister could possibly ensure. Thus the Committees do not in any manner impair ministerial responsibility.

There is also another contribution of our Committees which, though not quite apparent, should not be underestimated. Some of the influential and active Committees have successfully counteracted the feelings of frustration often felt by back-benchers. By working in some important Committees they (back-benchers) feel quite useful and that blows off their sceptic opinion of their abilities. A few Committees of Lok Sabha are the result of the demands of back-benchers. One such Committee is the Committee on Government Assurances. They could best serve the nation in these Committees than on the floor of the House.

Another role played by the Lok Sabha Committees may be mentioned here. They act as training centres of potential Ministers. Many Ministers are and were once Committee-men. Majority of the Ministers of State have been trained in the Committees before being elevated to those positions. This is,

though not the peculiar feature of our Lok Sabha Committees alone, an important role no doubt.

Before we close, one question may be examined in connection with the adequacy of our Committee system. Are they enough or some more Committees should be established? In this connection it can be examined if the British practice of having the Committees of the Whole House should be adopted? The purpose of establishing the Committees of Whole House is to permit more free and informal discussion of any question than could be had in a deliberative body acting under its ordinary and strict rules of procedure. But after resolving into a Committee of Whole House, it is permissible to limit the debate to a certain length of time to close at a certain time, to limit the length of speeches, or to otherwise limit debate though any member may speak as often as he can get the floor, and as long as the rules permit. One important point to be noted here is that the Committee of Whole House cannot take any final decision but its power is limited to recommendations to the House, the same as in the case of the other Committees. The Committee of the Whole House has no power to appoint sub-Committees.<sup>6</sup> In that case the Committee of the Whole House can transact only one business at a time. Again if greater freedom of discussion is the only thing desired at any time, the Speaker by taking the general consent of the House may relax the Rules to achieve this end. Thus, resolving the House into a Committee of the Whole House would be more time-taking than relaxing the rules but without having any additional benefits. Besides, in a country like ours where economic planning requires speedy decisions and quick actions, the establishment of a Committee of the Whole House to have leisurely discussion is most unwelcome and undesirable. Let the institutions of the old states be not invoked to stifle the progress of economic planning. Economic development is more dear to the people than the traditional dogmas and institutions.

6. Cushing's Legislative Assemblies, Sec. 308.

Another question may be examined here—the question of reviving Standing Advisory Committees. In England the Government is always hostile to any suggestion of having Standing Advisory Committees for every Department.<sup>7</sup> In the case of India the Standing Advisory Committees were once appointed just to associate some non-official members with the various Departments during the British rule and continued till 1952. Functions of the Standing Advisory Committees were purely advisory and their proceedings were strictly confidential. Legislative proposals, major questions of general policy and financial proposals, were placed before them. After Independence the question of continuing with the Standing Advisory Committees was examined. The Government decided firmly that these Committees should be abolished. The Prime Minister explained that these Committees were formed in quite different conditions and that they would have “no meaning in the present context”. They belong to a different system of institutions from those now in existence, and in any case they had proved of very little use in recent years.<sup>8</sup> Thus the matter was shelved. Now because we have suggested<sup>9</sup> to have more of sub-Committees of Estimates Committee to deal with all types of estimates every year, there is no more any reason to revive old Standing Advisory Committees to work under the chairmanship of the Ministers concerned and assisted by the departmental officials. It would be wise to leave such matters to the proposed sub-Committees of Estimates Committee which would work under the control of the Speaker. Thus, there should be no rival to the Estimates Committee at the pre-natal stage of policy-making.

It may be seen from the above that the existing Committees of Lok Sabha are enough. But, however, some proposals given by various scholars to constitute new Committees may be examined here.

7. Herbert Morrison Himself opposed the idea on the ground that they would impair ministerial responsibility.

8. H. P. Deb, 4th July, 1952.

9. See Chapter VII.

Professor A. B. Lal has suggested that "Committees of Investigation may be appointed to gather information, expose defects and suggest reforms and reorganisation, as is done in America".<sup>10</sup> But our study above indicates that developments in this direction have taken place already and our Committees are making investigation. This investigation is confined to the getting of facts which are necessary to enable them to come to certain conclusions on the matter before them. Our Committees not only gather information, but also expose defects and have, in fact, suggested many reforms and reorganisations. But it may be remembered that in America, Congressional investigations often permitted abuses that brought their power of investigation into disrepute. Members of Congress themselves are disturbed about the situation. An experienced Senator has remarked that the investigation is a "delicate instrument which cannot withstand the jolts and jars, the stress and strain of rude partisan handling".<sup>11</sup> Another Senator has warned that "unless Congress reforms its methods of conducting investigations, unless it puts some limits of responsibility both upon the interrogation of witness and upon the type of testimony which witnesses are allowed to give—unless, indeed, it adopts a wholly new and more judicious attitude—one of the great and important instruments of the Legislative process will be destroyed".<sup>12</sup> If such American type of Investigational Committees that smack of McCarthyism are introduced in our country, such Committees would jeopardise the very foundation of Parliamentary democracy and put responsible ministry in an awkward position.

Another suggestion was made some time back that "a Committee of the House should be appointed to advise the Cabinet on the issue of ordinances."<sup>13</sup> This suggestion was turned

10. A. B. Lal, (Edt.), *The Indian Parliament*, 1956, p. XX.

11. Scott W. Lucas, *Congressional Hearing : a Plea for Reform*, the *New York Times Magazine*, March, 1950.

12. Quoted in Irving M. Ires. In place of Congressional 'Circusses' the *New York Times Magazine*, August 27, 1950.

13. February, 1954.

down by the Government on the ground that the "Executive alone could issue them and not share this responsibility with the Parliament". While agreeing with this view that since ordinance-making power is an executive function and hence it is not desirable to appoint such a Committee, it may be suggested that the Committee on Subordinate Legislation may be consulted whenever the Government feels the necessity to know the reactions of Parliament.

Thus, the above analysis indicates that there is no necessity to have anyone of them. However, the desirability of having a Committee on Plans may be considered here. In fact, we are already having ad hoc Committees entrusted with the task, as already seen, of examining the details of the Five Year Plans on behalf of the House. This suggestion would entail them being converted into permanent Standing Committees entrusted with the task of watching the progress of the Plans and evaluating their achievements. They should have all the powers and privileges of the financial Committees. That would make the circle of Parliamentary control complete.

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